

Mr. John Belle  
Beyer Blinder Belle Architects and Planners, LLP  
41 E11th Street  
New York, NY 10003

JUN 14, 2005

Re: **Contract No.: GS02P04DTC0023(N)**  
A/E Design Services for the Infrastructure Upgrade of the  
Thurgood Marshall U.S. Courthouse  
40 Centre Street, New York, NY

Dear John:

Enclosed is an executed copy of the above referenced contract. This contract is issued under Contract No.: GS02P04DTC0023(N) for the PreDesign/Concept Phase of your contract in the dollar amount of \$ 1,482,408.36.

This letter constitutes "Notice to Proceed" and upon receipt you are to commence performance immediately

The following options may be exercised within the timeframes indicated in the contract:

**Design Phase Options:**

Option No. 1: Design Development:

Option No. 2: Construction Documents (50%/100%/Final):

**Total Design Phase Options:**

\$ (b) (4)  
\$ (b) (4)  
\$ (b) (4)

**Construction Phase Options:**

Option No. 3: Post Construction Contract Services (PCCS)

Option No. 4: Construction Inspection Services (CIS)

Option No. 5: As Built Drawings

Option No. 6: A/E Monthly Site Visits

**Total Construction Phase Options:**

\$ (b) (4)  
\$ (b) (4)  
\$ (b) (4)  
\$ (b) (4)  
\$ (b) (4)

Pursuant to the authority vested in me as Contracting Officer, I have delegated Mr. Mark Paull of the Capital Program Branch (2PCT) with the authority to recommend approvals, payments and serve as my technical representative under this contract. A separate letter outlining the specific delegations for Mr. Paull is enclosed.

In accordance with Public Law 95-507, and as implemented by FAR 52.219-9, your individual Small Business Subcontracting Plan, has been approved and is incorporated into your contract under Section "VIII". The Clause also requires you to submit

subcontracting reports on Standard Form (SF) 294 Subcontracting Report for Individual Contracts, and Standard Form (SF) 295, Summary Subcontract Report.

The reporting of your Subcontracting efforts will now be done electronically. I will follow up this letter with specific instructions on how and when to do submit the reports.

If you have any questions, please feel free to contact me at 212-264-7469. Technical questions should be directed to Mr. Paull at 212-264-3718.

Sincerely,

*Signed:* (b) (6)

JOAN M. RYAN

Contracting Officer

Acquisition Services Branch

Property Development Division

Enclosures

cc:

2PCB: O/F, R/F

2PC

2PCK: ABerman/KTsu/MPaull

2PCB: JRyan:1/14/05

AMENDMENT OF SOLICITATION/MODIFICATION OF CONTRACT		1. CONTRACT ID CODE		PAGE 1 OF 5 PAGES	
2. AMENDMENT/MODIFICATION NO. 1		3. EFFECTIVE DATE 1/14/05		4. REQUISITION/PURCHASE REQ. NO.	
5. PROJECT NO. (if applicable) INY04002		6. ISSUED BY General Services Administration, PBS Property Development Division 26 Federal Plaza, Room 1639 New York, NY 10278		7. ADMINISTERED BY (if other than Item 6) CODE	
8. NAME AND ADDRESS OF CONTRACTOR (No., street, county, State and ZIP Code) Beyer Blinder Belle, Architects & Planners, LLP. 41 E. 11th Street, 2nd Floor New York, NY 10003		(X)		9A. AMENDMENT OF SOLICITATION NO. GS-02P-04-DTC-0023 (N)	
		X		9B. DATED (SEE ITEM 11)	
				10A. MODIFICATION OF CONTRACT/ORDER NO.	
				10B. DATED (SEE ITEM 11)	
CODE		FACILITY CODE			

# 11. THIS ITEM ONLY APPLIES TO AMENDMENTS OF SOLICITATIONS

- ☐ The above numbered solicitation is amended as set forth in Item 14. The hour and date specified for receipt of Offers ☐ is extended, ☐ is not extended.
- Offers must acknowledge receipt of this amendment prior to the hour and date specified in the solicitation or as amended, by one of the following methods:
- (a) By completing items 8 and 15, and returning \_\_\_\_\_ copies of the amendment; (b) By acknowledging receipt of this amendment on each copy of the offer submitted; or (c) By separate letter or telegram which includes a reference to the solicitation and amendment numbers. FAILURE OF YOUR ACKNOWLEDGMENT TO BE RECEIVED AT THE PLACE DESIGNATED FOR THE RECEIPT OF OFFERS PRIOR TO THE HOUR AND DATE SPECIFIED MAY RESULT IN REJECTION OF YOUR OFFER. If by virtue of this amendment your desire to change an offer already submitted, such change may be made by telegram or letter, provided each telegram or letter makes reference to the solicitation and this amendment, and is received prior to the opening hour and date specified.

## 12. ACCOUNTING AND APPROPRIATION DATA (If required)

## 13. THIS ITEM ONLY APPLIES TO MODIFICATION OF CONTRACTS/ORDERS. IT MODIFIES THE CONTRACT/ORDER NO. AS DESCRIBED IN ITEM 14.

CHECK ONE	A. THIS CHANGE ORDER IS ISSUED PURSUANT TO: (Specify authority) THE CHANGES SET FORTH IN ITEM 14 ARE MADE IN THE CONTRACT ORDER NO. IN ITEM 10A.
	B. THE ABOVE NUMBERED CONTRACT/ORDER IS MODIFIED TO REFLECT THE ADMINISTRATIVE CHANGES (such as changes in paying office, appropriation date, etc.) SET FORTH IN ITEM 14, PURSUANT TO THE AUTHORITY OF FAR 43.103(b).
	C. THIS SUPPLEMENTAL AGREEMENT IS ENTERED INTO PURSUANT TO AUTHORITY OF:
	D. OTHER (Specify type of modification and authority)

E. IMPORTANT: Contractor ☐ is not, ☒ is required to sign this document and return 4 copies to the issuing office.

## 14. DESCRIPTION OF AMENDMENT/MODIFICATION (Organized by UCF section headings, including solicitation/contract subject matter where feasible.)

Amendment No. 1 is hereby issued to incorporate the attached changes to the Contract Scope of Work, Sections J, K & M.

This amendment has no impact on the total contract dollar amount.

Except as provided herein, all terms and conditions of the document referenced in Item 9A or 10A, as heretofore changed, remains unchanged and in full force and effect.

15A. NAME AND TITLE OF SIGNER (Type or print) JOHN BELLE PARTNER		16A. NAME AND TITLE OF CONTRACTING OFFICER (Type or print) JOAN M. RYAN	
15B. (b) (6)	15C. DATE SIGNED Jan 13 2005	16B. (b) (6)	16C. DATE SIGNED 1/14/05

***Amendment to the Architect-Engineer Scope of Work  
Infrastructure Upgrade of the Thurgood Marshall U.S. Courthouse***

***December 27, 2004***

Delete Section **J – DESIGN SCHEDULES** including all subsections and replace with the following:

**J – DESIGN SCHEDULES**

**J.1 DESIGN SCHEDULES** The scope of work for this project is divided into three separate bid packages, which shall be designed according to the schedules listed below. GSA anticipates that the design work for the three bid packages will start as indicated in the following schedules. The intent of this packaging is to complete a substantial amount of the bulk demolition removal work in the Thurgood Marshall US Courthouse before finalizing the design of the **MEP/Interior Construction** package. The A-E shall incorporate a phasing schedule for the demolition bid package to aid the MEP designers in their work. Additional probe type demolition work may also be performed onsite as deemed necessary by the A-E and approved by GSA and the US Courts. The purpose of this methodology is to best assist the A-E team in completing the design of the **MEP/Interior Construction** package based on the most accurate visual inspection and documentation of the existing courthouse infrastructure conditions. The goal of this project is to have “0” unforeseen conditions.

**J.1.1 BULK DEMOLITION**

**Design / Construction Schedule**

\*Design shall start 20 weeks after the A-E contract award

<b><u>Design Phase Description</u></b>	<b><u>Weeks</u></b>	<b><u>Cumulative Weeks</u></b>
<b>Pre Design Survey / Concept submission*</b>	<b>10</b>	
<b>Review by GSA / CM / US Courts</b>	<b>4</b>	<b>14</b>
<b>NO Design Development submission for demolition</b>	<b>0</b>	
<b>Construction Documents 50% submission</b>	<b>8</b>	<b>22</b>
<b>Review by GSA / CM / US Courts</b>	<b>4</b>	<b>26</b>
<b>Construction Documents 100% submission</b>	<b>8</b>	<b>34</b>
<b>Review by GSA / CM / US Courts</b>	<b>4</b>	<b>38</b>
<b>Construction Documents Final submission</b>	<b>3</b>	<b>41</b>
<b>TOTAL WEEKS FOR DESIGN COMPLETION</b>	<b>41</b>	<b>41</b>
<b>Conformed Drawings</b>	<b>3</b>	
<b>Post Construction Contract Services PCCS (option 3)</b>	<b>36</b>	
<b>Construction Inspection Services CIS (option 4)</b>	<b>36</b>	<b>36</b>
<b>As Built Documents (option 5)</b>	<b>36</b>	
<b>A-E Monthly Site Visits (option 6)</b>	<b>36</b>	<b>36</b>
<b>TOTAL WEEKS FOR DEMOLITION</b>	<b>36</b>	



**J.1.2 EXTERIOR CLOSURE****Design / Construction Schedule**

\*Design shall start upon the A-E contract award

<u>Design Phase Description</u>	<u>Weeks</u>	<u>Cumulative Weeks</u>
Pre Design Survey / Concept submission*	10	
Review by GSA / CM / US Courts	4	14
Design Development submission	6	20
Review by GSA / CM / US Courts	4	24
Construction Documents 50% submission	7	31
Review by GSA / CM / US Courts	4	35
Construction Documents 100% submission	7	42
Review by GSA / CM / US Courts	4	46
Construction Documents Final submission	3	49
<b>TOTAL WEEKS FOR COMPLETION</b>	<b>49</b>	<b>9</b>
Conformed Drawings	4	
Post Construction Contract Services PCCS (option 3)	59	
Construction Inspection Services CIS (option 4)	59	59
As Built Documents (option 5)	59	
A-E Monthly Site Visits (option 6)	59	59
<b>TOTAL WEEKS FOR CONSTRUCTION</b>	<b>59</b>	

**J.1.3 MEP & INTERIOR CONSTRUCTION****Design/Construction Schedule**

\*Design shall start upon the A-E contract award

<u>Design Phase Description</u>	<u>Weeks</u>	<u>Cumulative Weeks</u>
Pre Design Survey / Concept submission*	16	
Review by GSA / CM / US Courts	4	20
Design Development submission	24	44
Review by GSA / CM / US Courts	4	48
Construction Documents 50% submission	30	78
Review by GSA / CM / US Courts	4	82
Construction documents 100% submission	26	108
Review by GSA / CM / US Courts	4	112
Construction Documents Final submission	9	121
<b>TOTAL WEEKS FOR DESIGN COMPLETION</b>	<b>121</b>	<b>121</b>

<b>Conformed Drawings</b>	<b>4</b>	
<b>Post Construction Contract Services PCCS (option 3)</b>	<b>121</b>	
<b>Construction Inspection Services CIS (option 4)</b>	<b>121</b>	<b>121</b>
<b>As Built Documents (option 5)</b>	<b>121</b>	
<b>A-E Monthly Site Visits (option 6)</b>	<b>121</b>	<b>121</b>
<b>TOTAL WEEKS FOR CONSTRUCTION</b>	<b>121</b>	

Delete Section **K - DESIGN PHASE SERVICES by PHASE** only (not including any subsections) and replace with the following:

**K - DESIGN PHASE SERVICES by PHASE**

The design phase services start upon A-E contract award as indicated above.

Delete Section **M.3 As Built Documents (Option 5)** including all subsections and replace with the following:

**M.3 As Built Documents (Option 5)**

**M.3.1 As-Built Documents Services Overview** The A-E shall make provisions in the specifications for the General Contractor to provide CD-ROM As-Built Documents as indicated in sections M.3.1-M.3.6. The A-E shall provide to the GC and the CM, through GSA, sets of final conformed construction documents (including all RFI clarifications during bidding and construction as they occur) in CD-ROM format. The GC shall incorporate and transcribe all changes from the final conformed construction documents (including RFI's) onto the CD-ROM and plot a ready drawing file CD-ROM. The GC shall provide a CD-ROM to GSA and the US Courts as well as a set of reproducible polyester film, both identified as "As Built Record Documents." The GC shall also provide a set of the specifications in hard copy as well as on CD-ROM, identified as "As Built Record Documents" to GSA and the US Courts. The GC shall deliver the "As Built Record Documents" to GSA-Region 2-PBS-Property Development Division offices and to the US Courts with a dated transmittal statement.

**M.3.2 Provision Of On-Site Documents** The A-E shall make provisions in the specifications for the General Contractor to maintain, on the construction site, one complete set of drawings and one complete set of specifications for the exclusive use and purpose of recording, in these documents, in color, all installation work that deviates from the construction documents. In addition, the A-E shall indicate in the specifications that the GC shall incorporate, transcribe and update the As-Built Documents every three (3) months with all changes from the final conformed construction documents (including RFI's) onto a CD-ROM for the CM, GSA and the U.S. Courts. The CM has the responsibility to verify periodically, during the course of the inspections of the construction work, that the General

Contractor is promptly recording all installation work that deviates from the requirements of the construction drawings. The A-E shall confirm with the CM during the Construction Inspection Services (option 4) or A-E Monthly Site Visits (option 6) that these marked up CD-ROM drawings are reasonably complete up to the stage of completion of construction at the time of observation. The A/E shall make a written report to GSA and the US Courts regarding the observations.

**M.3.3 Preparation of Record Documents** The GC shall utilize the record information maintained on the job site and information in the conformed construction documents (including RFI's) furnished by the A-E. The GC shall provide GSA and the US Courts the project record information as follows.

**M.3.4. Content** The as-built specifications and drawings shall be prepared to reflect ALL changes as provided by the CM and General Contractor that occurred in the project whether they are within or outside the original scope of the project and without consideration to the installed work occurring under the original construction documents or occurring under change orders to the construction contract.

**M.3.5 Specifications** The GC shall update record information to reflect the actual installed conditions of all equipment in the project. All changes to the project specifications shall be made in script form, or other method acceptable to GSA and the US Courts, such that the changes are noticeable during a review of the specifications. Each change in the specifications shall include an entry, in brackets, that identifies the change and the date of the change. Upon completion of construction, the GC shall deliver two sets of the final updated specifications in hard copy as well as on CD-ROM, identified as "As Built Record Documents". One set shall go to GSA and one set shall go to the US Courts.

**M.3.6 As Built Record Drawings** Upon completion of construction, and within a mutually agreed to time frame of the review of the final updated As Built drawings by the CM and the A-E, the GC shall transcribe the final updated As Built drawings onto Auto CAD CD-ROM's in DWF and DWG formats. Two copies of each CD-ROM, identified as "As Built Record Documents", shall be submitted. One copy shall go to GSA and the other shall go to the US Courts. The GC shall also provide two sets of reproducible polyester film, both identified as "As Built Record Documents." One set shall go to GSA and the other shall go to the US Courts.

Delete Section **M.5 Total Building Commissioning (Option 7).**

**END OF AMENDMENT**

JAN 14 2005

Mr. John Belle  
Beyer Blinder Belle Architects and Planners, LLP  
41 E11th Street  
New York, NY 10003

Re: **Delegation of Authority**  
Contract No.: GS02P04DTC0023(N)  
A/E Design Services for the Infrastructure Upgrade of the  
Thurgood Marshall U.S. Courthouse, 40 Centre Street, New York, NY

Dear John:

Pursuant to the authority vested in me as the Contracting Officer under this contract, I have delegated Mr. Mark Paull of the Capital Program Branch of the Property Development Division with the authority to serve as my technical representative under Contract No.: GS02P04DTC0023(N). Under this authority, Mr. Paull will be responsible to perform the following day-to-day operations for this contract:

- Approval or disapproval of Surveys, Investigations, Concepts, Tentative, Working Drawings and other technical submissions required under this contract.
- Recommend contract payments.
- Monitor the schedule, determine and report monthly progress, make recommendations relative to changes in schedules including determination concerning lag or delay in schedule.
- Negotiate modifications. All modifications shall be subject to approval of the Contracting Officer and prevalidation of funds.
- Provide the professional expertise and assistance, necessary to assess and determine basis for default, Government's position under claim actions, terminating inventory, and negotiation of settlements.

Routine correspondence initiated by the COR which is related to the day-to-day project administration and not affecting contract terms and conditions, obligating or committing the Government, may be signed by the COR. The Contracting Officer shall sign all other correspondence.

These authorities may not be redelegated.

Sincerely,

**Signed: (b) (6)**

JOAN M. RYAN

Contracting Officer

Acquisition Services Branch

Property Development Division

2PCB: O/F, R/F, 2PC, 2PCK: ABerman/KTsu/MPaull, 2PCB: JRyan:1/14/05



**CONTRACT NO.:**      **GS02P04DTC0023(N)**  
**PROJECT NO.:**      **INY04002**

**DESCRIPTION:**      **Architect-Engineer Design Services For  
The Infrastructure Upgrade of the  
Thurgood Marshall U.S. Courthouse  
40 Centre Street, New York, NY**

**U.S. GENERAL SERVICES ADMINISTRATION  
Northeast and Caribbean Region**

**PUBLIC BUILDINGS SERVICE  
PROPERTY DEVELOPMENT DIVISION  
Jacob K. Javits Federal Building, New York, NY**

<b>ARCHITECT-ENGINEER CONTRACT</b>	<b>1. CONTRACT NO.</b>  GS02P04DTC0023(N)
	<b>2. DATE OF CONTRACT</b>  JAN 14 2005
<b>3A. NAME OF ARCHITECT ENGINEER</b>  BEYER BLINDER BELLE ARCHITECTS & PLANNERS, LLP	<b>3B. TELEPHONE NUMBER (INCLUDE AREA CODE)</b>  (212) 777-7800
<b>3C. ADDRESS OF ARCHITECT-ENGINEER (INCLUDING ZIP CODE)</b>  41 East 11 <sup>th</sup> Street New York, New York 10003	
<b>4. DEPARTMENT OR AGENCY AND ADDRESS (INCLUDING ZIP CODE)</b>  General Services Administration, PBS Property Development Division 26 Federal Plaza, Room 1639 New York, New York 10278	
<b>5. PROJECT TITLE AND LOCATION</b>  Architect/Engineer Services for the Design of the Infrastructure Upgrade of the Thurgood Marshall U.S. Courthouse 40 Centre Street, New York, NY	
<b>6. CONTRACT FOR (GENERAL DESCRIPTION OF SERVICES TO BE PROVIDED)</b>  This Contract is issued for Architect-Engineer Services, as required herein in the form of Construction Contract Documents, and other related Professional Services incidental to the design and construction of the subject project.  The firm shall complete all services required under this contract and its option(s) if exercised, in accordance with the contract Project Schedule located on Pages 125 and 126 of this contract.	
<b>7. AMOUNT</b> <u>Base Contract Amount:</u> Pre Design Survey/Concept Submission: \$1,482,408.36, <u>Design Phase Options:</u> Option No. 1: Design Development: (b) (4), Option No. 2: 50% Construction Documents: (b) (4), 100% Construction Documents: (b) (4), Final Submission Construction Documents: (b) (4) <u>Construction Phase Options:</u> Option No. 3: Post Construction Contract Services (PCCS): (b) (4) Option No. 4: Construction Inspection Services (CIS): (b) (4), Option No. 5: As Built Drawings: (b) (4) and Option No. 6: A/E Monthly Site Visits: (b) (4)	
<b>8. NEGOTIATION AUTHORITY</b>  FAR 6.102(d) (1) and FAR 36.6 in accordance with Public Law 92-582, 40 U.S.C. 541 et seq.	
<b>9. ADMINISTRATIVE, APPROPRIATION, AND ACCOUNTING DATA</b>  192.X.PO240001.PG51.25.PG211.516.VNY00788.NY0130ZZ <span style="float: right;">PDN: PJ5B00316</span>	

STANDARD FORM 252

10. The United States of America (called the Government) represented by the Contracting Officer executing this contract, and the Architect-Engineer agree to perform this contract in strict accordance with the clauses and documents identified as follows, all of which are made a part of this contract:

**ITEM NO. 10 TABLE OF CONTENTS**

**SECTIONS**

- I. CERTIFICATE OF CURRENT COST OR PRICING DATA
- II. REPRESENTATION AND CERTIFICATIONS
- III. DOCUMENT SECURITY NOTICE/AGREEMENT TO SAFEGUARD BUILDING DOCUMENTS (Section(s) A,B,C,D &E)
- IV. SERVICE CONTRACT CLAUSES/ARCHITECT-ENGINEER - INDEX  
SERVICE CONTRACT CLAUSES/ARCHITECT-ENGINEER
- V. SCOPE OF WORK A/E
- VI. A. INDIVIDUALS DESIGNATED TO PERFORM UNDER THIS CONTRACT  
B. SCHEDULE FOR PROCEEDING WITH PHASED SERVICES & OPTIONS  
C. FEE SCHEDULE
- VII. KEY PERSONNEL (SF-330)
- VIII. SMALL BUSINESS SUBCONTRACTING PLAN

If the parties to this contract are comprised of more than one legal entity, each entity shall be jointly and severally liable under this contract. The parties hereto have executed this contract as of the date recorder in Item 2.

SIGNATURES	NAMES AND TITLES (Typed)
11. ARCHITECT-ENGINEER OR OTHER PROFESSIONAL SERVICES CONTRACTOR	
(b) (6)	JOHN BELLE, PARTNER.
12. THE UNITED STATES OF AMERICA	
(b) (6)	JOAN M. RYAN Contracting Officer
GPO : 1984 0 - 446-371	
STANDARD FORM 252 BACK (REV. 10-83)	

**SECTION I**

**CERTIFICATE OF CURRENT COST OR PRICING  
DATA**



CONTRACT NO.: GS02P04DTC0023(N)

CERTIFICATE OF CURRENT COST OR PRICING DATA

(b) (4)

CONTRACT NO.: GS02P04DTC0023(N)

CERTIFICATE OF CURRENT COST OR PRICING DATA

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CONTRACT NO.: GS02P04DTC0023(N)

CERTIFICATE OF CURRENT COST OR PRICING DATA

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CONTRACT NO.: GS02P04DTC0023(N)

CERTIFICATE OF CURRENT COST OR PRICING DATA

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CERTIFICATE OF CURRENT COST OR PRICING DATA

(b) (4)

CONTRACT NO.: GS02P04DTC0023(N)

CERTIFICATE OF CURRENT COST OR PRICING DATA

(b) (4)

011(a)

**Certificate of Current Cost or Pricing Data**  
**FAR 15.406-2**

(b) (4)

(End of certificate)

011(b)

## **SECTION II**

### **REPRESENTATIONS AND CERTIFICATIONS**

REPRESENTATIONS AND CERTIFICATIONS	Reference GS-02P-04-DTC-0023(N)
Name and Address of Offeror (Name, Street, City, State and Zip Code) BEYER BLINDER BELLE ARCHITECTS&PLANNERS, LLP 41 East 11 <sup>th</sup> Street New York, NY 10003 DUNS NO.: <u>053548889</u>	Date of Offer  23 December 2004

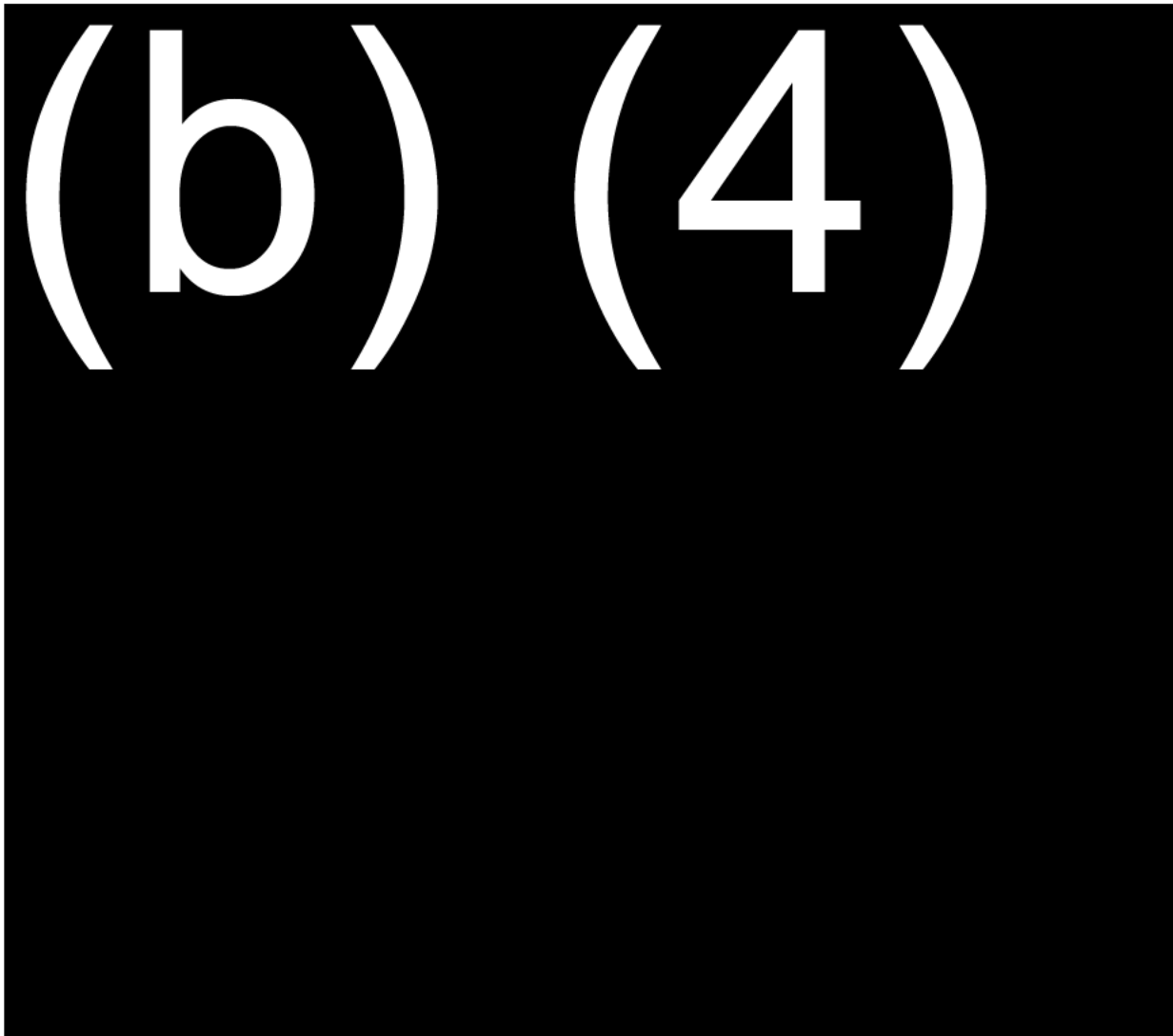
"SOLICITATION" means "INVITATION FOR BIDS" in Sealed Bidding, and "REQUEST FOR PROPOSAL" or "REQUEST FOR QUOTATION" in Negotiations.

"OFFER" means "BID" in Sealed Bidding, and "PROPOSAL" in Negotiation.

"OFFEROR" means the person or firm submitting the offer.

THE OFFEROR MAKES THE FOLLOWING REPRESENTATIONS AND CERTIFICATIONS AS A PART OF THE OFFER IDENTIFIED ABOVE. (Check the appropriate boxes and fill in blanks.)

1. FAR 52-219-1 Small Business Program Representations (May 2004)



(b) (4)

(End of provision)

2. FAR 52.219-19 Small Business Concern Representation For The Small Business Competitiveness Demonstration Program (OCT 2000))

(b) (4)



(b) (4)

3. FAR 52.219-21 Small Business Size Representation For Targeted Industry Categories Under The Small Business Competitiveness Demonstration Program (MAY 1999)

(b) (4)

(b) (4)

5. RESERVED

(b) (4)

6. RESERVED

7. FAR 52.222-22 Previous Contracts And Compliance Reports (FEB 1999)

(b) (4)

8. FAR 52.222-25 Affirmative Action Compliance (APR 1984)

(b) (4)

(b) (4)

9. FAR 52.222-21 Prohibition Of Nonsegregated Facilities (FEB 1999)

(b) (4)

10. FAR 52.214-2 (RESERVED)

11. FAR 52.203-2 Certificate Of Independent Price Determination (APR 1985)

(b) (4)

(b) (4)

12. FAR 52.209-5 Certification Regarding Debarment, Suspension, Proposed Debarment, And Other Responsibility Matters (APR 2001)

(b) (4)

(b) (4)

13. RESERVED

14. FAR 52.223-1--52.223-2 (RESERVED)

15. FAR 52.203-11 Certification And Disclosure Regarding Payments To Influence Certain Federal Transactions (APR 1991)

(b) (4)

16. RESERVED

(b) (4)

17. FAR 52.215-11 Price Reduction For Defective Cost Or Pricing Data--Modifications. (OCT 1997)

(b) (4)

(b) (4)

18. FAR 52.223-4 Recovered Material Certification (OCT 1997)

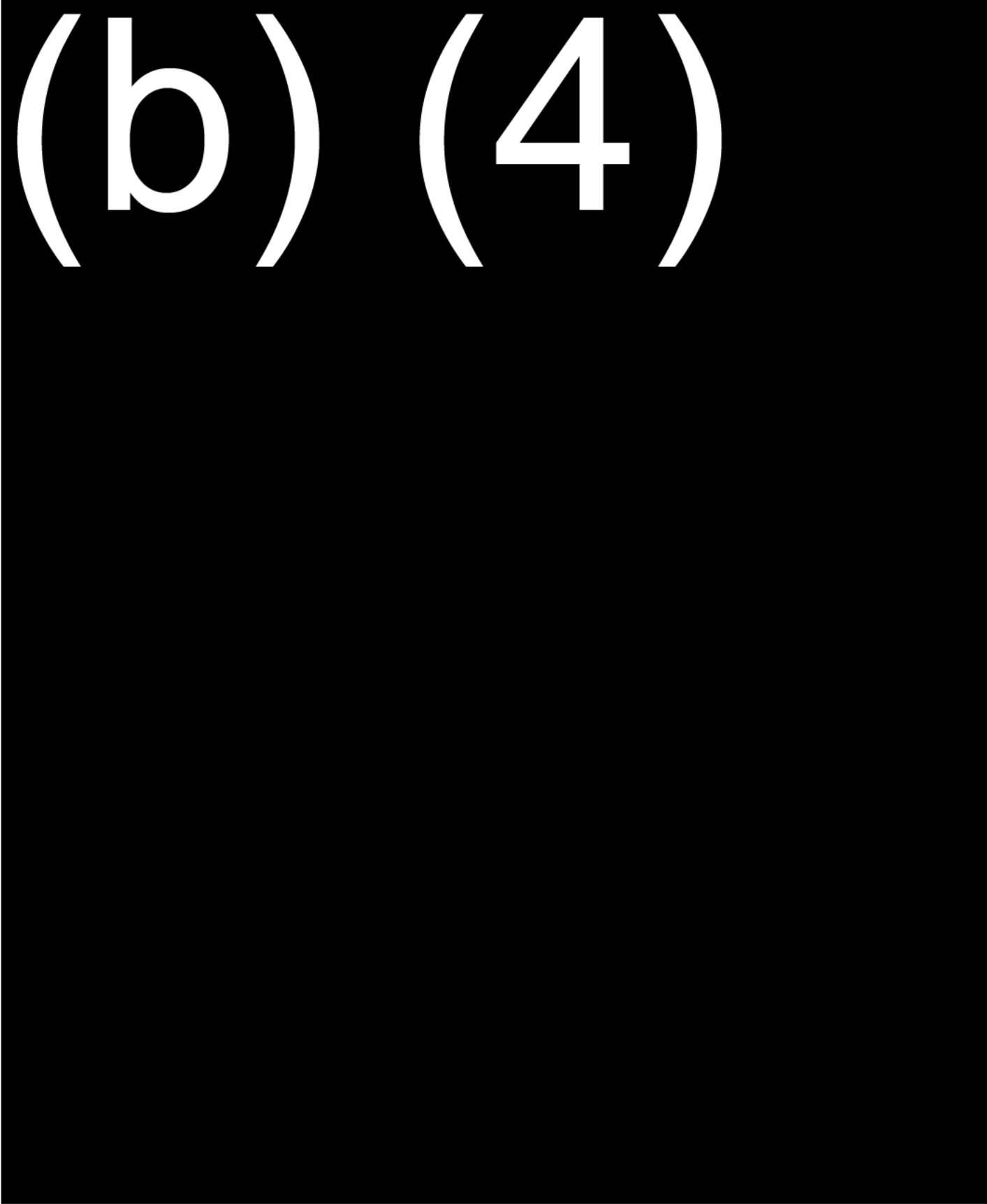
(b) (4)

19. FAR 52.225-1 Buy American Act--Balance of Payments Program--Supplies. (FEB 2000)

(b) (4)

20. FAR 52.230-1 - Cost Accounting Standards Notices and Certification (JUNE 2000)

(b) (4)





(b) (4)

21. FAR 52.230-2 Cost Accounting Standards (APR 1998)

(b) (4)

(b) (4)

22. FAR 52.230-3 Disclosure and Consistency of Cost Accounting Practices -- (APR 1998)

(b) (4)

(b) (4)

23. FAR 52.230-4 Consistency In Cost Accounting Practices (AUG 1992)

(b) (4)

24. FAR 52.230-5 Cost Accounting Standards—Educational Institution (APR 1998)

(b) (4)

(b) (4)

Attachment A - Certificate Regarding Lobbying

(b) (4)

(b) (4)

## INSTRUCTIONS FOR COMPLETION OF SF-LLL, DISCLOSURE OF LOBBYING ACTIVITIES

This disclosure form shall be completed by the reporting entity whether subawardee or prime Federal recipient, at the initiation or receipt of a covered Federal action, or a material change to a previous filing, pursuant to title 31 U.S.C. section 1352. The filing of a form is required for each payment or agreement to make payment to any lobbying entity for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, in officer or employee of Congress, or an employee of a Member of Congress in connection with a covered Federal action. Complete all items that apply for both the initial filing and material change report. Refer to the implementing guidance published by the Office of Management and Budget for additional information.

1. Identify the type of covered Federal action for which lobbying activity is and/or has been secured to influence the outcome of a covered Federal action.

2. Identify the status of the covered Federal action.

3. Identify the appropriate classification of this report. If this is a follow-up report caused by a material change to the information previously reported, enter the year and quarter in which the change occurred. Enter the date of the last previously submitted report by this reporting entity for this covered Federal action.

4. Enter the full name, address, city, state and zip code of the reporting entity. Include Congressional District, if known. Check the appropriate classification of the reporting entity that designates if it is, or expects to be a prime or subaward recipient. Identify the tier of the subawardee, e.g., the first subawardee of the prime is the 1st tier. Subawards include but are not limited to subcontracts, subgrants and contract awards under grants.

5. If the organization filing the report in item 4 checks "Subawardee" then enter the full name, address, city, state and zip code of the prime Federal recipient. Include Congressional District if known.

6. Enter the name of the Federal agency making the award or loan commitment. Include at least one organizational level below agency name, if known. For example, Department of Transportation, United State Coast Guard.

7. Enter the Federal program name or description for the covered Federal action (item 1). If known, enter the full Catalog of Federal Domestic Assistance (CFDA) number for grants, cooperative agreements, loans and loan commitments.

8. Enter the most appropriate Federal identifying number available for the Federal action identified in item 1 (e.g., Request for Proposal (RFP) number; Invitation for Bid (IFB) number; grant announcement number; the contract, grant or loan award number; the application/proposal control number assigned by the Federal agency). Include prefixes e.g., "RFP-DE-90-001."

9. For a covered Federal action where there has been an award or loan commitment by the Federal agency, enter the Federal amount of the award/loan commitment for the prime entity identified in item 4 or 5.

10. (a) Enter the full name, address, city, state and zip code of the lobbying registrant under the Lobbying Disclosure Act of 1995; and, engaged by the reporting entity identified in item 4 to influence the covered Federal action.

(b) Enter the full names of the individuals(s) performing services, and include full address if different from 10 (a). Enter Last Name, First Name, and Middle Initial (MI).

11. The certifying official shall sign and date the form, print his/her name, title, and telephone number.

Public reporting burden for this collection of information is estimated to average 30 minutes per response, including time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding the burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to the Office of Management and Budget, Paperwork Reduction Project (0348-0046), Washington, D.C. 20503.

### **SECTION III**

## **DOCUMENT SECURITY NOTICE**



### SECTION III

#### U.S. GENERAL SERVICES ADMINISTRATION NORTHEAST AND CARIBBEAN REGION PUBLIC BUILDINGS SERVICE

#### DOCUMENT SECURITY NOTICE

#### AGREEMENT TO SAFEGUARD BUILDING DOCUMENTS

To comply with PBS Order 3490.1 (3/8/02):

- I. Effective immediately, on A-E contracts/work orders, where the A-E is CREATING the specifications/drawings, the primary A-E and its sub-consultants must also complete and sign a "Document Security Notice" at each tier level and submit to the Government. The A-E Scope of Work shall state, "All professional services consultants shall sign the 'Document Security Notice' -- that documents containing Sensitive But Unclassified building information created under contract to the Federal Government shall be handled according to the procedures in this Notice."

"This contract includes Sensitive But Unclassified (SBU) building information. SBU documents (specifications and/or drawings) provided herein are intended for use by authorized users only. In support of this requirement, GSA requires parties at all tier levels to exercise "reasonable care" when handling documents relating to SBU building information.

Before releasing the specifications and/or drawings to a subcontractor, supplier, consultant, etc., the "Document Security Notice" included herein shall be completed and signed by both parties.

- II. The COVER PAGE of the set of construction drawings shall include the following:

"PROPERTY OF THE UNITED STATES GOVERNMENT  
COPYING, DISSEMINATION, OR DISTRIBUTION OF THESE DRAWINGS, PLANS,  
OR SPECIFICATIONS TO UNAUTHORIZED USERS IS PROHIBITED

Do not remove this notice  
Properly destroy documents when no longer needed"

- III. On the drawings, EACH PAGE which contains building or equipment information specific to the building shall include the following:

"PROPERTY OF THE UNITED STATES GOVERNMENT  
FOR OFFICIAL USE ONLY

Do not remove this notice  
Properly destroy documents when no longer needed"

The Scope of Work for A-E contracts/work orders shall instruct the A-E to comply with the above requirements when they prepare the specifications and/or drawings that will become the construction documents.

VI. (TO BE DONE AT CONTRACT COMPLETION) For all contracts containing building information, the prime contractor shall submit a statement that he and his subcontractors have properly disposed of the building documents, with the exception of the contractor's record copy, at the time of submission of the Release of Claims, in order to obtain final payment.

**BEFORE RELEASING THE SPECIFICATIONS AND/OR DRAWINGS, THE DISSEMINATOR PARTY MUST OBTAIN A WRITTEN AGREEMENT WITH THE RECIPIENT PARTY. COMPLETE SECTIONS A, D, & E.**

This solicitation/contract includes Sensitive But Unclassified (SBU) building information. SBU documents (specifications and/or drawings) provided herein are intended for use by authorized users only. In support of this requirement, the General Services Administration (GSA) requires offerors/contractors at all tier levels to exercise "reasonable care" when handling documents relating to SBU building information.

Those who disseminate SBU building information must FIRST require a signed "Document Security Notice" from those who receive the information. This document is a flow-down agreement and, therefore, it shall be completed at all tier levels in the bidding/contracting process.

SECTION A

TO BE COMPLETED BY THE "DISSEMINATOR" PARTY  
(Party releasing building information)

NAME OF DISSEMINATOR PARTY

\_\_\_\_\_  
(party releasing the building documents)

NAME OF RECIPIENT PARTY

\_\_\_\_\_  
(party receiving the building documents)

This is an agreement between the following disseminator and recipient parties (check one):

\_\_\_\_\_ General Services Administration and offeror/prospective offeror/contractor on the Government prime contract.

\_\_\_\_\_ Offeror/prospective offeror/contractor on the Government prime contract and actual or prospective 1st-tier subcontractor/supplier/consultant.

\_\_\_\_\_ Actual or prospective 1st- or higher-tier subcontractor/supplier/consultant and actual or prospective 2nd- or higher-tier subcontractor/supplier/consultant.

\_\_\_\_\_ Other (specify)

## SECTION B

### INSTRUCTIONS TO THE "DISSEMINATOR" PARTY:

#### **I. BEFORE RELEASING BUILDING DOCUMENTS (SPECIFICATIONS/DRAWINGS) TO A RECIPIENT PARTY, THE DISSEMINATOR PARTY SHALL:**

1. Provide a "Document Security Notice" to the recipient party with Section A completed. The recipient party shall complete Section D and provide a copy of its business license.
2. Verify the information provided in Section D, and complete Section E.
3. Verify the identity of anyone coming in person to pick up the building documents on the recipient party's behalf, by looking at his/her driver's license or other official picture ID. Make sure he/she is an authorized representative of the recipient party. Annotate in Section E.

**II.** Once approved, provide blank "Document Security Notices" to the recipient party. **The recipient party may, in turn, become a disseminator party (e.g., 1st-tier sub is "recipient" of documents from prime contractor but "disseminator" of documents to 2nd-tier sub) and shall follow the same instructions described above before releasing building documents to a next-lower-tier recipient party. This agreement shall flow down to all tier levels in the bidding/contracting process.**

### SPECIAL INSTRUCTIONS FOR UNSUCCESSFUL OFFERORS ON THE GOVERNMENT PRIME CONTRACT:

- I.** Immediately upon learning that your firm is unsuccessful (or otherwise ineligible for award), destroy all building documents and instruct all recipient parties at all tier levels to do the same.
- II.** Collect "Document Security Notices" from all recipient parties at all tier levels and furnish to the GSA Contracting Officer.

### SPECIAL INSTRUCTIONS FOR GOVERNMENT PRIME CONTRACTOR:

- I.** Immediately upon completion of the Government prime contract, destroy all building documents, except for your firm's record copy, and instruct all recipient parties at all tier levels to do the same. These include recipient parties both pre- and post-award of the Government prime contract.
- II.** Collect "Document Security Notices" from all recipient parties at all tier levels and furnish to the GSA Contracting Officer. These include recipient parties both pre- and post-award of the Government prime contract.
- III.** Include with your final *Release of Claims* a written statement certifying that the contractor and all subcontractors, suppliers, consultants, etc., have properly disposed of building documents (with the exception of the contractor's record copy). This certification is necessary in order to receive final payment under the contract.

## SECTION C

### ENSURING THE EXERCISE OF "REASONABLE CARE" TO PROTECT BUILDING DOCUMENTS:

1. **Limiting dissemination to authorized users.** Dissemination of information shall only be made upon determination that the recipient is *authorized* to receive it. The criterion to determine authorization is *need-to-know*. Those with a *need-to-know* are those who are specifically granted access for the conduct of business on behalf of or with GSA. This includes all persons or firms necessary to do work at the request of the Government, such as architects and engineers, consultants, contractors, sub-contractors, suppliers, and others that the contractor deems necessary in order to submit an offer/bid or to complete the work or contract, as well as maintenance and repair contractors and equipment service contractors.

**Note:** It is the responsibility of the person or firm disseminating the information to assure that the recipient is an authorized user and to keep records of recipients.

#### AUTHORIZED USERS SHALL PROVIDE IDENTIFICATION AS SET FORTH BELOW:

**Valid identification for non-Government users.** Authorized non-Government users shall provide valid identification to receive SBU building information. The identification shall be presented and verified for each dissemination. Valid identification shall be all items (a) through (c), below, and including item (d), as necessary:

(a) **A copy of a valid business license or other documentation granted by the state or local jurisdiction to conduct business.** The license at a minimum shall provide the name, address, phone number of the company, state of incorporation, and the name of the individual legally authorized to act for the company. The business must be of the type required to do the work. A general contractor's license may be substituted for the business license in states that issue such licenses. In the rare cases where a business license is not available from the jurisdiction, the information shall be provided and testified to by the submitter; **and**

(b) **Verification of a valid DUNS Number** against the company name listed on the business license or certification. Verification may be obtained through <http://www.fpdg.gov>, or by calling Dun & Bradstreet at 703-807-5078 to set up an account; **and**

(c) **A Valid IRS Tax ID Number** of the company requesting the information; **and, as necessary,**

(d) **A Valid picture state driver's license** shall be required of person(s) picking up SBU documents. Phone verification must be made to a previously validated authorized user that the individual(s) picking up the documentation is authorized to do so by the company obtaining the documents. SBU documents will not be released to any individual or firm who has not, either previously or at the time of pickup, supplied the required documentation as outlined in paragraphs (a) through (c), above.

**2. Retaining and destroying documents.** The efforts required above shall continue throughout the entire term of the contract and for whatever specific time thereafter as may be necessary. Necessary record copies for legal purposes (such as those retained by the architect, engineer, or contractor) must be safeguarded against unauthorized use for the term of retention. Documents no longer needed shall be destroyed (such as after contract award, after completion of any appeals process or completion of the work). Destruction shall be done by burning or shredding hardcopy, and/or physically destroying CD's, deleting and removing files from the electronic recycling bins, and removing material from computer hard drives using a permanent erase utility or similar software.

**3. Term of effectiveness.** The efforts required above shall continue throughout the entire term of contract and for what specific time thereafter as may be necessary, as determined by the Government. Necessary record copies for legal purposes (such as those retained by the architect, engineer, or contractor) must be safeguarded against unauthorized use for the term of retention.

**4. Written agreement of disposal.** For all contracts using SBU building information, the contractor shall provide a written statement that he and his subcontractors have properly disposed of the SBU building documents, with the exception of the contractor's record copy, at the time of Release of Claims to obtain final payment. Documents no longer needed shall be destroyed (such as after contract award, after completion of any appeals process or completion of the work). Destruction shall be done by burning or shredding hardcopy, and/or physically destroying CDs, deleting and removing files from the electronic recycling bins, and removing material from computer hard drives using a permanent erase utility or similar software.

The recipient acknowledges the requirement to use "reasonable care," as outlined above, to safeguard the documents and, if not awarded the contract (and at the completion of any protest/appeal process), will make every reasonable and prudent effort to destroy or render useless all SBU information received during the solicitation.

**COMPLETE THE NEXT PAGE.**

## SECTION D

TO BE COMPLETED BY THE "RECIPIENT" PARTY  
(Party receiving building information)

I agree that I will abide by this agreement and will only disseminate Sensitive But Unclassified (SBU) building information to other authorized users under the conditions set forth above.

Signature: \_\_\_\_\_ Date: \_\_\_\_\_

Print Name and Title: \_\_\_\_\_

Firm: \_\_\_\_\_

DUNS Number: \_\_\_\_\_ IRS Tax ID Number \_\_\_\_\_

ATTACH A COPY OF YOUR FIRM'S BUSINESS LICENSE.

**SECTION E**

TO BE COMPLETED BY THE "DISSEMINATOR" PARTY  
(Party releasing building information)

CHECK AS APPROPRIATE (AFTER SECTION D HAS BEEN COMPLETED):

	YES	NO
Tax ID Number of recipient party was provided	<input type="checkbox"/>	<input type="checkbox"/>
DUNS Number of recipient party was provided and was verified to be valid (Go to: <a href="http://www.fpd.gov">http://www.fpd.gov</a> or call: (888) 546-0024 [Need to provide Agency Code: (4740) and Office Code: (CT000)])	<input type="checkbox"/>	<input type="checkbox"/>
Copy of valid business license for recipient party was provided	<input type="checkbox"/>	<input type="checkbox"/>

	YES	NO	N/A
(If building documents are to be picked up in person) Verified his/her identity using picture ID and that he/she is an authorized representative of the recipient party	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

**I authorize releasing the subject building documents to the above-named recipient party.**

Signature: \_\_\_\_\_ Date: \_\_\_\_\_

**DO NOT RELEASE BUILDING DOCUMENTS IF 'NO'  
IS CHECKED FOR ANY CATEGORY.**



**SECTION IV**

**LETTER CONTRACT CLAUSES  
SERVICE CONTRACT CLAUSES/AE**

## LETTER CONTRACT CLAUSES

### 1. 52.216-24 Limitation of Government Liability (Apr 1984)

(a) In performing this contract, the Contractor is not authorized to make expenditures or incur obligations exceeding (b) (4) dollars.

(b) The maximum amount for which the Government shall be liable if this contract is terminated is \* dollars.

\* Only Costs allowable in accordance with FAR Clause 52.249-4 Termination for Convenience

(End of clause)

### 2. 52.216-25 Contract Definitization (Oct 1997)

(a) An **Architect-Engineer** definitive contract is contemplated. The Contractor agrees to begin promptly negotiating with the Contracting Officer the terms of a definitive contract that will include (1) all clauses required by the Federal Acquisition Regulation (FAR) on the date of execution of the letter contract, (2) all clauses required by law on the date of execution of the definitive contract, and (3) any other mutually agreeable clauses, terms, and conditions. The Contractor agrees to submit a Final Revised Fee Proposal and cost or pricing data supporting its proposal.

(b) The schedule for definitizing this contract is January 28, 2005.

The definitization shall include:

- (i) A final Revised Fee Proposal for the Prime firm, and all consultants being utilized under this contract
- (ii) Negotiated salary, overhead and profit rates of all consultants
- (iii) A final approved Small Business Subcontracting Plan
- (iv) The inclusion of final negotiated dollar amounts for all remaining Option(s) contemplated under this contract.

(c) If agreement on a definitive contract to supersede this letter contract is not reached by the target date in paragraph (b) of this section, or within any extension of it granted by the Contracting Officer, the Contracting Officer may, with the approval of the head of the contracting activity, determine a reasonable price or fee in accordance with Subpart 15.4 and Part 31 of the FAR, subject to Contractor appeal as provided in the Disputes clause. In any event, the Contractor shall proceed with completion of the contract, subject only to the Limitation of Government Liability clause.

(1) After the Contracting Officer's determination of price or fee, the contract shall be governed by-

- (i) All clauses required by the FAR on the date of execution of this letter contract for either fixed-price or cost-reimbursement contracts, as determined by the Contracting Officer under this paragraph (c);
- (ii) All clauses required by law as of the date of the Contracting Officer's determination; and
- (iii) Any other clauses, terms, and conditions mutually agreed upon.

(2) To the extent consistent with paragraph (c)(1) of this section, all clauses, terms, and conditions included in this letter contract shall continue in effect, except those that by their nature apply only to a letter contract.

(End of clause)

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48 CFR REFERENCE	CLAUSE NUMBER	APPLICABLE CLAUSE & TITLE	
1	52.202-1	Definitions (July 2004)	
2	52.203-3	Gratuities (Apr 1985)	
3	52.203-5	Covenant Against Contingent Fees (Apr 1984)	
4	52.203-7	Anti-Kickback Procedures (Jul 1995)	
5	52.203-8	Cancellation, Rescission, and Recovery of Funds for Illegal or Improper Activity (Jan 1997)	
6	52.203-10	Price or Fee Adjustment for Illegal or Improper Activity (Jan 1997)	
7	52.203-11	Certification and Disclosure Regarding Payments to Influence Certain Federal Transactions. (Apr 1991)	
8	52.203-12	Limitation on Payments to Influence Certain Federal Transactions (Jun 2003)	
9	52.204-4	Printed or Copies Double-Sided on Recycled paper (Aug 2000)	
10	52.204-5	Women-Owned Business (Other Than Small Business) (May 1999)	
11	52.204-6	Data Universal Numbering System (DUNS) Number (Oct 2003)	
12	52.204-7	Central Contractor Registration (Oct. 2003)	
13	52.209-6	Protecting the Government's Interest When Subcontracting with Contractors Debarred, Suspended, or Proposed for Debarment (Jul 1995)	
14	52.215-2	Audit and Records - Negotiation (June 1999)	
15	52.215-10	Price Reduction for Defective Cost or Pricing Data (Oct 1997)	
16	52.215-11	Price Reduction for Defective Cost or Pricing Data-- Modification (Oct 1997)	
17	52.215-12	Subcontractor Cost or Pricing Data (Oct 1997)	
18	52.215-13	Subcontractor Cost or Pricing Data -- Modification (Oct 1997)	
19	52.215-15	Pension Adjustments and Asset Reversions (Oct. 2004)	
20	52.215-18	Reversion or Adjustment of Plans for Post-retirement Benefits (PRB) Other Than Pensions (Oct 1997)	
21	52.215-19	Notification of Ownership Changes (Oct 1997)	
22	52.216-1	Type of Contract (Apr 1984)	
23	52.216-24	Limitation of Government Liability (Apr 1984)	
24	52.216-25	Contract Definitization (Oct 1997)	
25	52.219-8	Utilization of Small Business Concerns (May 2004)	
26	52.219-9	Small Business Contracting Plan (Jan 2002)	
27	52.219-16	Liquidated Damages -- Subcontracting Plan (Jan 1999)	
28	52.219-22	Small Disadvantaged Business Status (Oct 1999)	
29	52.219-23	Notice of Price Evaluation Adjustment for Small Disadvantaged Business Concerns (June 2003)	
30	52.219-24	Small Disadvantaged Business Participation Program-- Targets (Oct 2000)	
31	52.219-25	Small Disadvantaged Business Participation Program-- Disadvantaged Status and Reporting (Oct 1999)	

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32	52.219-26	Small Disadvantaged Business Participation Program-- Incentive Subcontracting (Oct 2000)	
33	52.222-1	Notice of the Government of Labor Disputes (Feb 1997)	
34	52.222-3	Convict Labor (June 2003)	
35	52.222-26	Equal Opportunity (April 2002)	
36	52.222-35	Affirmative Action for Disabled Veterans and Veterans of the Vietnam Era (Dec 2001)	
37	52.222-36	Affirmative Action for Workers with Disabilities (Jun 1998)	
38	52.222-37	Employment Reports on Disabled Veterans and Veterans of the Vietnam Era (Dec 2001)	
39	52.223-3	Hazardous Material Identification and Material Safety Data (Jan 1997)	
40	52.223-6	Drug-Free Workplace (May 2001)	
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42	52.223-14	Toxic Chemical Release Reporting (Aug 2003)	
43	52.225-13	Restrictions on Certain Foreign Purchases (Dec. 2003)	
44	52.227-1	Authorization and Consent (Jul 1995)	
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46	52.228-5	Insurance--Work on a Government Installation (Jan 1997)	
47	52.229-3	Federal, State and Local Taxes (April 2003)	
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49	52.232-11	Extras (Apr 1984)	
50	52.232-17	Interest (Jun 1996)	
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53	52.232-25	Prompt Payment (Oct. 2003)	
54	52.232-26	Prompt Payment for Fixed-Price Architect-Engineer Contracts (Oct.2003)	
55	52.232-33	Payment by Electronic Funds Transfer - Central Contract Registration (Oct 2003)	
56	52.232-34	Payment by Electronic Funds Transfer - Other Than Central Contract Registration (May 1999)	
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61	52.237-2	Protection of Government Buildings, Equipment, and Vegetation (Apr 1984)	
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63	52.243-1	Changes -- Fixed Price (Aug 1987)	
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65	52.246-4	Inspection of Services - Fixed-Price (Aug 1996)	
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## Service Contract Clauses

### 1. 52.202-1 Definitions (July 2004)

#### Definitions (July 2004)

- (a) When a solicitation provision or contract clause uses a word or term that is defined in the Federal Acquisition Regulation (FAR), the word or term has the same meaning as the definition in FAR 2.101 in effect at the time the solicitation was issued, unless-
- (1) The solicitation, or amended solicitation, provides a different definition;
  - (2) The contracting parties agree to a different definition;
  - (3) The part, subpart, or section of the FAR where the provision or clause is prescribed provides a different meaning; or
  - (4) The word or term is defined in FAR Part 31, for use in the cost principles and procedures.
- (b) The FAR Index is a guide to words and terms the FAR defines and shows where each definition is located. The FAR Index is available via the Internet at <http://www.acqnet.gov> at the end of the FAR, after the FAR Appendix.

(End of clause)

### 2. 52.203-3 Gratuities (Apr 1985)

- (a) The right of the Contractor to proceed may be terminated by written notice if, after notice and hearing, the agency head or a designee determines that the Contractor, its agent, or another representative--
- (1) Offered or gave a gratuity (e.g., an entertainment or gift) to an officer, official, or employee of the Government; and
  - (2) Intended, by the gratuity, to obtain a contract or favorable treatment under a contract.
- (b) The facts supporting this determination may be reviewed by any court having lawful jurisdiction.
- (c) If this contract is terminated under paragraph (a) of this clause, the Government is entitled--
- (1) To pursue the same remedies as in a breach of the contract; and
  - (2) In addition to any other damages provided by law, to exemplary damages of not less than 3 nor more than 10 times the cost incurred by the Contractor in giving gratuities to the person concerned, as determined by the agency head or a designee. (This subparagraph (c)(2) is applicable only if this contract uses money appropriated to the Department of Defense.)
- (d) The rights and remedies of the Government provided in this clause shall not be exclusive and are in addition to any other rights and remedies provided by law or under this contract.

(End of clause)

### 3. 52.203-5 Covenant Against Contingent Fees (Apr 1984)

- (a) The Contractor warrants that no person or agency has been employed or retained to solicit or obtain this contract upon an agreement or understanding for a contingent fee, except a bona fide employee or agency. For breach or violation of this warranty, the Government shall have the right to annul this contract without liability or, in its discretion, to deduct from the contract price or consideration, or otherwise recover, the full amount of the contingent fee.
- (b) "Bona fide agency," as used in this clause, means an established commercial or selling agency, maintained by a contractor for the purpose of securing business, that neither exerts nor proposes to exert improper influence to solicit or obtain Government contracts nor holds itself out as being able to obtain any Government contract or contracts through improper influence. "Bona fide employee," as used in this clause, means a person, employed by a contractor and subject to the contractor's supervision and control as to time, place, and manner of performance, who neither exerts nor proposes to exert improper influence to solicit or obtain Government contracts nor holds out as being able to obtain any Government contract or contracts through improper influence. "Contingent fee," as used in this clause, means any commission, percentage, brokerage, or other fee that is contingent upon the success that a person or concern has in securing a Government contract. "Improper influence," as used in this clause, means any influence that induces or tends to induce a Government employee or officer to give consideration or to act regarding a Government contract on any basis other than the merits of the matter.

(End of clause)

### 4. 52.203-7 Anti-Kickback Procedures (Jul 1995)

- (a) Definitions.
- "Kickback," as used in this clause, means any money, fee, commission, credit, gift, gratuity, thing of value, or compensation of any kind which is provided, directly or indirectly, to any prime Contractor, prime Contractor employee, subcontractor, or subcontractor employee for the

## Service Contract Clauses

purpose of improperly obtaining or rewarding favorable treatment in connection with a prime contract or in connection with a subcontract relating to a prime contract.. "Person," as used in this clause, means a corporation, partnership, business association of any kind, trust, joint-stock company, or individual. "Prime contract," as used in this clause, means a contract or contractual action entered into by the United States for the purpose of obtaining supplies, materials, equipment, or services of any kind. "Prime Contractor" as used in this clause, means a person who has entered into a prime contract with the United States.

"Prime Contractor employee," as used in this clause, means any officer, partner, employee, or agent of a prime Contractor. "Subcontract," as used in this clause, means a contract or contractual action entered into by a prime Contractor or subcontractor for the purpose of obtaining supplies, materials, equipment, or services of any kind under a prime contract. "Subcontractor," as used in this clause, (1) means any person, other than the prime Contractor, who offers to furnish or furnishes any supplies, materials, equipment, or services of any kind under a prime contract or a subcontract entered into in connection with such prime contract, and

(2) includes any person who offers to furnish or furnishes general supplies to the prime Contractor or a higher tier subcontractor. "Subcontractor employee," as used in this clause, means any officer, partner, employee, or agent of a subcontractor.

(b) The Anti-Kickback Act of 1986 (41 U.S.C. 51-58) (the Act), prohibits any person from-- (1) Providing or attempting to provide or offering to provide any kickback; (2) Soliciting, accepting, or attempting to accept any kickback; or (3) Including, directly or indirectly, the amount of any kickback in the contract price charged by a prime Contractor to the United States or in the contract price charged by a subcontractor to a prime Contractor or higher tier subcontractor.

(c)(1) The Contractor shall have in place and follow reasonable procedures designed to prevent and detect possible violations described in paragraph (b) of this clause in its own operations and direct business relationships. (2) When the Contractor has reasonable grounds to believe that a violation described in paragraph (b) of this clause may have occurred, the Contractor shall promptly report in writing the possible violation. Such reports shall be made to the inspector general of the contracting agency, the head of the contracting agency if the agency does not have an inspector general, or the Department of Justice. (3) The Contractor shall cooperate fully with any Federal agency investigating a possible violation

described in paragraph (b) of this clause.

(4) The Contracting Officer may (i) offset the amount of the kickback against any monies owed by the United States under the prime contract and/or (ii) direct that the Prime Contractor withhold from sums owed a subcontractor under the prime contract the amount of the kickback. The Contracting Officer may order that monies withheld under subdivision (c)(4)(ii) of this clause be paid over to the Government unless the Government has already offset those monies under subdivision (c)(4)(i) of this clause. In either case, the Prime Contractor shall notify the Contracting Officer when the monies are withheld.

(5) The Contractor agrees to incorporate the substance of this clause, including subparagraph (c)(5) but excepting subparagraph (c)(1), in all subcontracts under this contract which exceed \$100,000.

(End of clause)

### 5. 52.203-8 Cancellation, Rescission, and Recovery of Funds for Illegal or Improper Activity (Jan 1997)

(a) If the Government receives information that a contractor or a person has engaged in conduct constituting a violation of subsection (a), (b), (c), or (d) of section 27 of the Office of Federal Procurement Policy Act (41 U.S.C. 423) (the Act), as amended by section 4304 of the National Defense Authorization Act for Fiscal Year 1996 (Pub. L. 104-106), the Government may--

(1) Cancel the solicitation, if the contract has not yet been awarded or issued; or

(2) Rescind the contract with respect to which--

(i) The Contractor or someone acting for the Contractor has been convicted for an offense where the conduct constitutes a violation of subsection 27(a) or (b) of the Act for the purpose of either--

(A) Exchanging the information covered by such subsections for anything of value; or

(B) Obtaining or giving anyone a competitive advantage in the award of a Federal agency procurement contract; or

(ii) The head of the contracting activity has determined, based upon a preponderance of the evidence, that the Contractor or someone acting for the Contractor has engaged in conduct constituting an offense punishable under subsection 27(c)(1) of the Act.

(b) If the Government rescinds the contract under paragraph (a) of this clause, the Government is entitled to recover, in addition to any penalty prescribed by law, the amount expended under the contract.

(c) The rights and remedies of the Government specified herein are not exclusive, and are in addition to any other rights and remedies provided by law, regulation, or under this contract.

(End of clause)



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### 6. 52.203-10 Price or Fee Adjustment for Illegal or Improper Activity (Jan 1997)

- (a) The Government, at its election, may reduce the price of a fixed-price type contract and the total cost and fee under a cost-type contract by the amount of profit or fee determined as set forth in paragraph (b) of this clause if the head of the contracting activity or designee determines that there was a violation of subsection 27(a), (b), or (c) of the Office of Federal Procurement Policy Act, as amended (41 U.S.C. 423), as implemented in section 3.104 of the Federal Acquisition Regulation.
- (b) The price or fee reduction referred to in paragraph (a) of this clause shall be--
- (1) For cost-plus-fixed-fee contracts, the amount of the fee specified in the contract at the time of award;
  - (2) For cost-plus-incentive-fee contracts, the target fee specified in the contract at the time of award, notwithstanding any minimum fee or "fee floor" specified in the contract;
  - (3) For cost-plus-award-fee contracts--
    - (i) The base fee established in the contract at the time of contract award;
    - (ii) If no base fee is specified in the contract, 30 percent of the amount of each award fee otherwise payable to the Contractor for each award fee evaluation period or at each award fee determination point.
  - (4) For fixed-price-incentive contracts, the Government may--
    - (i) Reduce the contract target price and contract target profit both by an amount equal to the initial target profit specified in the contract at the time of contract award; or
    - (ii) If an immediate adjustment to the contract target price and contract target profit would have a significant adverse impact on the incentive price revision relationship under the contract, or adversely affect the contract financing provisions, the Contracting Officer may defer such adjustment until establishment of the total final price of the contract. The total final price established in accordance with the incentive price revision provisions of the contract shall be reduced by an amount equal to the initial target profit specified in the contract at the time of contract award and such reduced price shall be the total final contract price.
  - (5) For firm-fixed-price contracts, by 10 percent of the initial contract price or a profit amount determined by the Contracting Officer from records or documents in existence prior to the date of the contract award.
- (c) The Government may, at its election, reduce a prime contractor's price or fee in accordance with the procedures of paragraph (b) of this clause for violations of the Act by its subcontractors by an amount not to exceed the amount of profit or fee reflected in the subcontract at the time the subcontract was first definitively priced.
- (d) In addition to the remedies in paragraphs (a) and (c) of this clause, the Government may terminate this contract for default. The rights and remedies of the Government specified herein are not exclusive, and are in addition to any other rights and remedies provided by law or under this contract.

(End of clause)

### 7. 52.203-11 Certification and Disclosure Regarding Payments to Influence Certain Federal Transactions. (Apr 1991)

- (a) The definitions and prohibitions contained in the clause, at FAR 52.203-12, Limitation on Payments to Influence Certain Federal Transactions, included in this solicitation, are hereby incorporated by reference in paragraph (b) of this certification.
- (b) The offeror, by signing its offer, hereby certifies to the best of his or her knowledge and belief that on or after December 23, 1989--
- (1) No Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress on his or her behalf in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment or modification of any Federal contract, grant, loan, or cooperative agreement;
  - (2) If any funds other than Federal appropriated funds (including profit or fee received under a covered Federal transaction) have been paid, or will be paid, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress on his or her behalf in connection with this solicitation, the offeror shall complete and submit, with its offer, OMB standard form LLL, Disclosure of Lobbying Activities, to the Contracting Officer; and
  - (3) He or she will include the language of this certification in all subcontract awards at any tier and require that all recipients of subcontract awards in excess of \$100,000 shall certify and disclose accordingly.

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(c) Submission of this certification and disclosure is a prerequisite for making or entering into this contract imposed by section 1352, title 31, United States Code. Any person who makes an expenditure prohibited under this provision or who fails to file or amend the disclosure form to be filed or amended by this provision, shall be subject to a civil penalty of not less than \$10,000, and not more than \$100,000, for each such failure.

(End of provision)

### 8. 52.203-12 Limitation on Payments to Influence Certain Federal Transactions (Jun 2003)

#### a) Definitions.

"Agency," as used in this clause, means executive agency as defined in 2.101.

"Covered Federal action," as used in this clause, means any of the following Federal actions:

- (1) The awarding of any Federal contract.
- (2) The making of any Federal grant.
- (3) The making of any Federal loan.
- (4) The entering into of any cooperative agreement.
- (5) The extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.

"Indian tribe" and "tribal organization," as used in this clause, have the meaning provided in section 4 of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450B) and include Alaskan Natives.

"Influencing or attempting to influence," as used in this clause, means making, with the intent to influence, any communication to or appearance before an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with any covered Federal action.

"Local government," as used in this clause, means a unit of government in a State and, if chartered, established, or otherwise recognized by a State for the performance of a governmental duty, including a local public authority, a special district, an intrastate district, a council of governments, a sponsor group representative organization, and any other instrumentality of a local government.

"Officer or employee of an agency," as used in this clause, includes the following individuals who are employed by an agency:

- (1) An individual who is appointed to a position in the Government under Title 5, United States Code, including a position under a temporary appointment.
- (2) A member of the uniformed services, as defined in subsection 101(3), Title 37, United States Code.
- (3) A special Government employee, as defined in section 202, Title 18, United States Code.
- (4) An individual who is a member of a Federal advisory committee, as defined by the Federal Advisory Committee Act, Title 5, United States Code, appendix 2.

"Person," as used in this clause, means an individual, corporation, company, association, authority, firm, partnership, society, State, and local government, regardless of whether such entity is operated for profit, or not for profit. This term excludes an Indian tribe, tribal organization, or any other Indian organization with respect to expenditures specifically permitted by other Federal law.

"Reasonable compensation," as used in this clause, means, with respect to a regularly employed officer or employee of any person, compensation that is consistent with the normal compensation for such officer or employee for work that is not furnished to, not funded by, or not furnished in cooperation with the Federal Government.

"Reasonable payment," as used in this clause, means, with respect to professional and other technical services, a payment in an amount that is consistent with the amount normally paid for such services in the private sector.

"Recipient," as used in this clause, includes the Contractor and all subcontractors. This term excludes an Indian tribe, tribal organization, or any other Indian organization with respect to expenditures specifically permitted by other Federal law.

"Regularly employed," as used in this clause, means, with respect to an officer or employee of a person requesting or receiving a Federal contract, an officer or employee who is employed by such person for at least 130 working days within 1 year immediately preceding the date of the submission that initiates agency consideration of such person for receipt of such contract. An officer or employee who is employed by such person for less than 130 working days within 1 year immediately preceding the date of the submission that initiates agency consideration of such person shall be considered to be regularly employed as soon as he or she is employed by such person for 130 working days.

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"State," as used in this clause, means a State of the United States, the District of Columbia, or an outlying area of the United States, an agency or instrumentality of a State, and multi-State, regional, or interstate entity having governmental duties and powers.

### *(b) Prohibitions.*

(1) Section 1352 of Title 31, United States Code, among other things, prohibits a recipient of a Federal contract, grant, loan, or cooperative agreement from using appropriated funds to pay any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with any of the following covered Federal actions: the awarding of any Federal contract; the making of any Federal grant; the making of any Federal loan; the entering into of any cooperative agreement; or the modification of any Federal contract, grant, loan, or cooperative agreement.

(2) The Act also requires Contractors to furnish a disclosure if any funds other than Federal appropriated funds (including profit or fee received under a covered Federal transaction) have been paid, or will be paid, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with a Federal contract, grant, loan, or cooperative agreement.

(3) The prohibitions of the Act do not apply under the following conditions:

#### *(i) Agency and legislative liaison by own employees.*

(A) The prohibition on the use of appropriated funds, in paragraph (b)(1) of this clause, does not apply in the case of a payment of reasonable compensation made to an officer or employee of a person requesting or receiving a covered Federal action if the payment is for agency and legislative liaison activities not directly related to a covered Federal action.

(B) For purposes of subdivision (b)(3)(i)(A) of this clause, providing any information specifically requested by an agency or Congress is permitted at any time.

(C) The following agency and legislative liaison activities are permitted at any time where they are not related to a specific solicitation for any covered Federal action:

(1) Discussing with an agency the qualities and characteristics (including individual demonstrations) of the person's products or services, conditions or terms of sale, and service capabilities.

(2) Technical discussions and other activities regarding the application or adaptation of the person's products or services for an agency's use.

(D) The following agency and legislative liaison activities are permitted where they are prior to formal solicitation of any covered Federal action-

(1) Providing any information not specifically requested but necessary for an agency to make an informed decision about initiation of a covered Federal action;

(2) Technical discussions regarding the preparation of an unsolicited proposal prior to its official submission; and

(3) Capability presentations by persons seeking awards from an agency pursuant to the provisions of the Small Business Act, as amended by Pub. L. 95-507, and subsequent amendments.

(E) Only those services expressly authorized by subdivision (b)(3)(i)(A) of this clause are permitted under this clause.

#### *(ii) Professional and technical services.*

(A) The prohibition on the use of appropriated funds, in paragraph (b)(1) of this clause, does not apply in the case of-

(1) A payment of reasonable compensation made to an officer or employee of a person requesting or receiving a covered Federal action or an extension, continuation, renewal, amendment, or modification of a covered Federal action, if payment is for professional or technical services rendered directly in the preparation, submission, or negotiation of any bid, proposal, or application for that Federal action or for meeting requirements imposed by or pursuant to law as a condition for receiving that Federal action.

(2) Any reasonable payment to a person, other than an officer or employee of a person requesting or receiving a covered Federal action or an extension, continuation, renewal, amendment, or modification of a covered Federal action if the payment is for professional or technical services rendered directly in the preparation, submission, or negotiation of any bid, proposal, or application for that Federal action or for meeting requirements imposed by or pursuant to law as a condition for receiving that Federal action. Persons other than officers or employees of a person requesting or receiving a covered Federal action include consultants and trade associations.

(B) For purposes of subdivision (b)(3)(ii)(A) of this clause, "professional and technical services" shall be limited to advice and analysis directly applying any professional or technical discipline. For example, drafting of a legal document accompanying a bid or proposal by a lawyer is allowable. Similarly, technical advice provided by an engineer on the performance or operational capability of a piece of equipment rendered directly in the negotiation of a contract is allowable. However, communications with the intent to influence made by a professional (such as a licensed lawyer) or a technical person (such as a licensed accountant) are not allowable under this section unless they provide advice and analysis directly applying their professional or technical expertise and unless the advice or analysis is rendered directly and solely in the preparation, submission or negotiation of a covered Federal action. Thus, for example, communications with the intent to influence made by a lawyer that do not provide legal advice or analysis directly and solely related to the legal aspects of his or her client's proposal, but generally advocate one proposal over another are not allowable under this section because the lawyer is not providing professional legal services. Similarly, communications with the intent to influence made by an engineer providing an engineering analysis prior to the

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preparation or submission of a bid or proposal are not allowable under this section since the engineer is providing technical services but not directly in the preparation, submission or negotiation of a covered Federal action.

(C) Requirements imposed by or pursuant to law as a condition for receiving a covered Federal award include those required by law or regulation and any other requirements in the actual award documents.

(D) Only those services expressly authorized by subdivisions (b)(3)(ii)(A)(1) and (2) of this clause are permitted under this clause.

(E) The reporting requirements of FAR 3.803(a) shall not apply with respect to payments of reasonable compensation made to regularly employed officers or employees of a person.

### (c) *Disclosure.*

(1) The Contractor who requests or receives from an agency a Federal contract shall file with that agency a disclosure form, OMB standard form LLL, Disclosure of Lobbying Activities, if such person has made or has agreed to make any payment using nonappropriated funds (to include profits from any covered Federal action), which would be prohibited under paragraph (b)(1) of this clause, if paid for with appropriated funds.

(2) The Contractor shall file a disclosure form at the end of each calendar quarter in which there occurs any event that materially affects the accuracy of the information contained in any disclosure form previously filed by such person under paragraph (c)(1) of this clause. An event that materially affects the accuracy of the information reported includes-

(i) A cumulative increase of \$25,000 or more in the amount paid or expected to be paid for influencing or attempting to influence a covered Federal action; or

(ii) A change in the person(s) or individual(s) influencing or attempting to influence a covered Federal action; or

(iii) A change in the officer(s), employee(s), or Member(s) contacted to influence or attempt to influence a covered Federal action.

(3) The Contractor shall require the submittal of a certification, and if required, a disclosure form by any person who requests or receives any subcontract exceeding \$100,000 under the Federal contract.

(4) All subcontractor disclosure forms (but not certifications) shall be forwarded from tier to tier until received by the prime Contractor. The prime Contractor shall submit all disclosures to the Contracting Officer at the end of the calendar quarter in which the disclosure form is submitted by the subcontractor. Each subcontractor certification shall be retained in the subcontract file of the awarding Contractor.

(d) *Agreement.* The Contractor agrees not to make any payment prohibited by this clause.

### (e) *Penalties.*

(1) Any person who makes an expenditure prohibited under paragraph (a) of this clause or who fails to file or amend the disclosure form to be filed or amended by paragraph (b) of this clause shall be subject to civil penalties as provided for by 31 U.S.C. 1352. An imposition of a civil penalty does not prevent the Government from seeking any other remedy that may be applicable.

(2) Contractors may rely without liability on the representation made by their subcontractors in the certification and disclosure form.

(f) *Cost allowability.* Nothing in this clause makes allowable or reasonable any costs which would otherwise be unallowable or unreasonable. Conversely, costs made specifically unallowable by the requirements in this clause will not be made allowable under any other provision.

(End of clause)

## 9 52.204-4 Printed or Copied Double-Sided on Recycled Paper (Aug 2000)

(a) Definitions. As used in this clause--

"Post consumer material" means a material or finished product that has served its intended use and has been discarded for disposal or recovery, having completed its life as a consumer item.

Post consumer material is a part of the broader category of "recovered material." For paper and paper products, postconsumer material means "postconsumer fiber" defined by the U.S.

Environmental Protection Agency (EPA) as--

(1) Paper, paperboard, and fibrous materials from retail stores, office buildings, homes, and so forth, after they have passed through their end-usage as a consumer item, including: used

corrugated boxes; old newspapers; old magazines; mixed waste paper; tabulating cards; and used cordage; or

(2) All paper, paperboard, and fibrous materials that enter and are collected from municipal solid waste; but not

(3) Fiber derived from printers' over-runs, converters' scrap, and over-issue publications.

"Printed or copied double-sided" means printing or reproducing a document so that information is

on both sides of a sheet of paper. "Recovered material," for paper and paper products, is defined by EPA in its Comprehensive

Procurement Guideline as "recovered fiber" and means the following materials:

(1) Postconsumer fiber; and

(2) Manufacturing wastes such as--

(i) Dry paper and paperboard waste generated after completion of the papermaking process

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(that is, those manufacturing operations up to and including the cutting and trimming of the paper machine reel into smaller rolls or rough sheets) including: envelope cuttings, bindery trimmings, and other paper and paperboard waste resulting from printing, cutting, forming, and other converting operations; bag, box, and carton manufacturing wastes; and butt rolls, mill wrappers, and rejected unused stock; and

(ii) Repulped finished paper and paperboard from obsolete inventories of paper and paperboard manufacturers, merchants, wholesalers, dealers, printers, converters, or others.

(b) In accordance with Section 101 of Executive Order 13101 of September 14, 1998, Greening the Government through Waste Prevention, Recycling, and Federal Acquisition, the

Contractor is encouraged to submit paper documents, such as offers, letters, or reports, that are printed or copied double-sided on recycled paper that meet minimum content standards specified in Section 505 of Executive Order 13101, when not using electronic commerce methods to submit information or data to the Government.

(c) If the Contractor cannot purchase high-speed copier paper, offset paper, forms bond, computer printout paper, carbonless paper, file folders, white wove envelopes, writing and office paper, book paper, cotton fiber paper, and cover stock meeting the 30 percent postconsumer material standard for use in submitting paper documents to the Government, it should use paper containing no less than 20 percent postconsumer material. This lesser standard should be used only when paper meeting the 30 percent postconsumer material standard is not obtainable at a reasonable price or does not meet reasonable performance standards.

(End of clause)

### 10. 52.204-5 Women-Owned Business (Other Than Small Business) (May 1999)

(a) Definition. "Women-owned business concern," as used in this provision, means a concern that is at least 51 percent owned by one or more women; or in the case of any publicly owned business, at least 51 percent of its stock is owned by one or more women; and whose management and daily business operations are controlled by one or more women.

(b) Representation. [Complete only if the offeror is a women-owned business concern and has not represented itself as a small business concern in paragraph (b)(1) of FAR 52.219-1, Small Business Program Representations, of this solicitation.] The offeror represents that it \* is a women-owned business concern.

(End of provision)

### 11. 52.204-6 Data Universal Numbering System (DUNS) Number (Oct 2003)

(a) The offeror shall enter, in the block with its name and address on the cover page of its offer, the annotation "DUNS" or "DUNS+4" followed by the DUNS number or "DUNS+4" that identifies the offeror's name and address exactly as stated in the offer. The DUNS number is a nine-digit number assigned by Dun and Bradstreet, Inc. The DUNS+4 is the DUNS number plus a 4-character suffix that may be assigned at the discretion of the offeror to establish additional CCR records for identifying alternative Electronic Funds Transfer (EFT) accounts (see Subpart 32.11) for the same parent concern.

(b) If the offeror does not have a DUNS number, it should contact Dun and Bradstreet directly to obtain one.

(1) An offeror may obtain a DUNS number-

(i) If located within the United States, by calling Dun and Bradstreet at 1-866-705-5711 or via the Internet at <http://www.dnb.com>; or

(ii) If located outside the United States, by contacting the local Dun and Bradstreet office.

(2) The offeror should be prepared to provide the following information:

(i) Company legal business name.

(ii) Tradestyle, doing business, or other name by which your entity is commonly recognized.

(iii) Company physical street address, city, state and Zip Code.

(iv) Company mailing address, city, state and Zip Code (if separate from physical).

(v) Company telephone number.

(vi) Date the company was started.

(vii) Number of employees at your location.

(viii) Chief executive officer/key manager.

(ix) Line of business (industry).

(x) Company Headquarters name and address (reporting relationship within your entity).

(End of provision)

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### 12. 52.204-7 Central Contractor Registration (Oct 2003)

(a) Definitions. As used in this clause-

"Central Contractor Registration (CCR) database" means the primary Government repository for Contractor information required for the conduct of business with the Government.

"Data Universal Numbering System (DUNS) number" means the 9-digit number assigned by Dun and Bradstreet, Inc. (D&B) to identify unique business entities.

"Data Universal Numbering System +4 (DUNS+4) number" means the DUNS number assigned by D&B plus a 4-character suffix that may be assigned by a business concern. (D&B has no affiliation with this 4-character suffix.) This 4-character suffix may be assigned at the discretion of the business concern to establish additional CCR records for identifying alternative Electronic Funds Transfer (EFT) accounts (see the FAR at Subpart 32.11) for the same parent concern.

"Registered in the CCR database" means that-

(1) The Contractor has entered all mandatory information, including the DUNS number or the DUNS+4 number, into the CCR database; and

(2) The Government has validated all mandatory data fields and has marked the record "Active".

(b)(1) By submission of an offer, the offeror acknowledges the requirement that a prospective awardee shall be registered in the CCR database prior to award, during performance, and through final payment of any contract, basic agreement, basic ordering agreement, or blanket purchasing agreement resulting from this solicitation.

(2) The offeror shall enter, in the block with its name and address on the cover page of its offer, the annotation "DUNS" or "DUNS +4" followed by the DUNS or DUNS +4 number that identifies the offeror's name and address exactly as stated in the offer. The DUNS number will be used by the Contracting Officer to verify that the offeror is registered in the CCR database.

(c) If the offeror does not have a DUNS number, it should contact Dun and Bradstreet directly to obtain one.

(1) An offeror may obtain a DUNS number-

(i) If located within the United States, by calling Dun and Bradstreet at 1-866-705-5711 or via the Internet at <http://www.dnb.com>; or

(ii) If located outside the United States, by contacting the local Dun and Bradstreet office.

(2) The offeror should be prepared to provide the following information:

(i) Company legal business.

(ii) Tradestyle, doing business, or other name by which your entity is commonly recognized.

(iii) Company Physical Street Address, City, State, and Zip Code.

(iv) Company Mailing Address, City, State and Zip Code (if separate from physical).

(v) Company Telephone Number.

(vi) Date the company was started.

(vii) Number of employees at your location.

(viii) Chief executive officer/key manager.

(ix) Line of business (industry).

(x) Company Headquarters name and address (reporting relationship within your entity).

(d) If the Offeror does not become registered in the CCR database in the time prescribed by the Contracting Officer, the Contracting Officer will proceed to award to the next otherwise successful registered Offeror.

(e) Processing time, which normally takes 48 hours, should be taken into consideration when registering. Offerors who are not registered should consider applying for registration immediately upon receipt of this solicitation.

(f) The Contractor is responsible for the accuracy and completeness of the data within the CCR database, and for any liability resulting from the Government's reliance on inaccurate or incomplete data. To remain registered in the CCR database after the initial registration, the Contractor is required to review and update on an annual basis from the date of initial registration or subsequent updates its information in the CCR database to ensure it is current, accurate and complete. Updating information in the CCR does not alter the terms and conditions of this contract and is not a substitute for a properly executed contractual document.

(g)

(1)

(i) If a Contractor has legally changed its business name, "doing business as" name, or division name (whichever is shown on the contract), or has transferred the assets used in performing the contract, but has not completed the necessary requirements regarding novation and change-of-name agreements in Subpart 42.12, the Contractor shall provide the responsible Contracting Officer a minimum of one business day's written notification of its intention to (A) change the name in the CCR database; (B) comply with the requirements of Subpart 42.12 of the FAR; and (C) agree in writing to the timeline and procedures specified by the responsible Contracting Officer. The Contractor must provide with the notification sufficient documentation to support the legally changed name.

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(ii) If the Contractor fails to comply with the requirements of paragraph (g)(1)(i) of this clause, or fails to perform the agreement at paragraph (g)(1)(i)(C) of this clause, and, in the absence of a properly executed novation or change-of-name agreement, the CCR information that shows the Contractor to be other than the Contractor indicated in the contract will be considered to be incorrect information within the meaning of the "Suspension of Payment" paragraph of the electronic funds transfer (EFT) clause of this contract.

(2) The Contractor shall not change the name or address for EFT payments or manual payments, as appropriate, in the CCR record to reflect an assignee for the purpose of assignment of claims (see FAR Subpart 32.8, Assignment of Claims). Assignees shall be separately registered in the CCR database. Information provided to the Contractor's CCR record that indicates payments, including those made by EFT, to an ultimate recipient other than that Contractor will be considered to be incorrect information within the meaning of the "Suspension of payment" paragraph of the EFT clause of this contract.

(h) Offerors and Contractors may obtain information on registration and annual confirmation requirements via the internet at <http://www.ccr.gov> or by calling 1-888-227-2423, or 269-961-5757.

(End of clause)

*Alternate I (Oct 2003).* As prescribed in 4.1104(a), substitute the following paragraph (b) for paragraph (b) of the basic clause:

(b)(1) The Contractor shall be registered in the CCR database by \_\_\_\_\_ [Contracting Officer shall insert a date no later than December 31, 2003]. The Contractor shall maintain registration during performance and through final payment of this contract.

(2) The Contractor shall enter, in the block with its name and address on the cover page of the SF 30, Amendment of solicitation/Modification of Contract, the annotation "DUNS" or "DUNS +4" followed by the DUNS or DUNS +4 number that identifies the Contractor's name and address exactly as stated in this contract. The DUNS number will be used by the Contracting Officer to verify that the Contractor is registered in the CCR database.

(End of clause)

### **13. 52.209-6 Protecting the Government's Interest When Subcontracting with Contractors Debarred, Suspended, or Proposed for Debarment (Jul 1995)**

(a) The Government suspends or debars Contractors to protect the Government's interests. The Contractor shall not enter into any subcontract in excess of \$25,000 with a Contractor that is debarred, suspended, or proposed for debarment unless there is a compelling reason to do so.

(b) The Contractor shall require each proposed first-tier subcontractor, whose subcontract will exceed \$25,000, to disclose to the Contractor, in writing, whether as of the time of award of the subcontract, the subcontractor, or its principals, is or is not debarred, suspended, or proposed for debarment by the Federal Government.

(c) A corporate officer or a designee of the Contractor shall notify the Contracting Officer, in writing, before entering into a subcontract with a party that is debarred, suspended, or proposed for debarment (see FAR 9.404 for information on the List of Parties Excluded from Federal Procurement and Nonprocurement Programs). The notice must include the following:

(1) The name of the subcontractor.

(2) The Contractor's knowledge of the reasons for the subcontractor being on the List of Parties Excluded from Federal Procurement and Nonprocurement Programs.

(3) The compelling reason(s) for doing business with the subcontractor notwithstanding its inclusion on the List of Parties Excluded From Federal Procurement and Nonprocurement Programs.

(4) The systems and procedures the Contractor has established to ensure that it is fully protecting the Government's interests when dealing with such subcontractor in view of the specific basis for the party's debarment, suspension, or proposed debarment.

(End of clause)

### **14. 52.215-2 Audit and Records--Negotiation (June 1999)**

(a) As used in this clause, "records" includes books, documents, accounting procedures and practices, and other data, regardless of type and regardless of whether such items are in written form, in the form of computer data, or in any other form.

(b) Examination of costs. If this is a cost-reimbursement, incentive, time-and-materials, labor-hour, or price redeterminable contract, or any combination of these, the Contractor shall maintain and the Contracting Officer, or an authorized representative of the Contracting Officer, shall have the right to examine and audit all records and other evidence sufficient to reflect properly all costs claimed to have been incurred or

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anticipated to be incurred directly or indirectly in performance of this contract. This right of examination shall include inspection at all reasonable times of the Contractor's plants, or parts of them, engaged in performing the contract.

(c) Cost or pricing data. If the Contractor has been required to submit cost or pricing data in connection with any pricing action relating to this contract, the Contracting Officer, or an authorized representative of the Contracting Officer, in order to evaluate the accuracy, completeness, and currency of the cost or pricing data, shall have the right to examine and audit all of the Contractor's records, including computations and projections, related to--

(1) The proposal for the contract, subcontract, or modification;

(2) The discussions conducted on the proposal(s), including those related to negotiating;

(3) Pricing of the contract, subcontract, or modification; or

(4) Performance of the contract, subcontract or modification.

(d) Comptroller General--(1) The Comptroller General of the United States, or an authorized representative, shall have access to and the right to examine any of the Contractor's directly pertinent records involving transactions related to this contract or a subcontract hereunder.

(2) This paragraph may not be construed to require the Contractor or subcontractor to create or maintain any record that the Contractor or subcontractor does not maintain in the ordinary course of business or pursuant to a provision of law.

(e) Reports. If the Contractor is required to furnish cost, funding, or performance reports, the Contracting Officer or an authorized representative of the Contracting Officer shall have the right to examine and audit the supporting records and materials, for the purpose of evaluating--

(1) The effectiveness of the Contractor's policies and procedures to produce data compatible with the objectives of these reports; and

(2) The data reported.

(f) Availability. The Contractor shall make available at its office at all reasonable times the records, materials, and other evidence described in paragraphs (a), (b), (c), (d), and (e) of this clause, for examination, audit, or reproduction, until 3 years after final payment under this contract or for any shorter period specified in Subpart 4.7, Contractor Records Retention, of the Federal Acquisition Regulation (FAR), or for any longer period required by statute or by other clauses of this contract. In addition--

(1) If this contract is completely or partially terminated, the Contractor shall make available the records relating to the work terminated until 3 years after any resulting final termination settlement; and

(2) The Contractor shall make available records relating to appeals under the Disputes clause or to litigation or the settlement of claims arising under or relating to this contract until such appeals, litigation, or claims are finally resolved.

(g) The Contractor shall insert a clause containing all the terms of this clause, including this paragraph (g), in all subcontracts under this contract that exceed the simplified acquisition threshold, and--

(1) That are cost-reimbursement, incentive, time-and-materials, labor-hour, or price-redeterminable type or any combination of these;

(2) For which cost or pricing data are required; or

(3) That require the subcontractor to furnish reports as discussed in paragraph (e) of this clause. The clause may be altered only as necessary to identify properly the contracting parties and the Contracting Officer under the Government prime contract.

(End of clause)

### 15 52.215-10 Price Reduction for Defective Cost or Pricing Data (Oct 1997)

(a) If any price, including profit or fee, negotiated in connection with this contract, or any cost reimbursable under this contract, was increased by any significant amount because--

(1) The Contractor or a subcontractor furnished cost or pricing data that were not complete, accurate, and current as certified in its Certificate of Current Cost or Pricing Data;

(2) A subcontractor or prospective subcontractor furnished the Contractor cost or pricing data that were not complete, accurate, and current as certified in the Contractor's Certificate of Current Cost or Pricing Data; or

(3) Any of these parties furnished data of any description that were not accurate, the price or cost shall be reduced accordingly and the contract shall be modified to reflect the reduction. (b) Any reduction in the contract price under paragraph (a) of this clause due to defective data from a prospective subcontractor that was not subsequently awarded the subcontract shall be limited to the amount, plus applicable overhead and profit markup, by which--

(1) The actual subcontract; or

(2) The actual cost to the Contractor, if there was no subcontract, was less than the prospective subcontract cost estimate submitted by the Contractor; provided, that the actual subcontract price was not itself affected by defective cost or pricing data.

(c)(1) If the Contracting Officer determines under paragraph (a) of this clause that a price or cost reduction should be made, the Contractor agrees not to raise the following matters as a defense:



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- (i) The Contractor or subcontractor was a sole source supplier or otherwise was in a superior bargaining position and thus the price of the contract would not have been modified even if accurate, complete, and current cost or pricing data had been submitted.
- (ii) The Contracting Officer should have known that the cost or pricing data in issue were defective even though the Contractor or subcontractor took no affirmative action to bring the character of the data to the attention of the Contracting Officer.
- (iii) The contract was based on an agreement about the total cost of the contract and there was no agreement about the cost of each item procured under the contract.
- (iv) The Contractor or subcontractor did not submit a Certificate of Current Cost or Pricing Data.
- (2)(i) Except as prohibited by subdivision (c)(2)(ii) of this clause, an offset in an amount determined appropriate by the Contracting Officer based upon the facts shall be allowed against the amount of a contract price reduction if--
  - (A) The Contractor certifies to the Contracting Officer that, to the best of the Contractor's knowledge and belief, the Contractor is entitled to the offset in the amount requested; and
  - (B) The Contractor proves that the cost or pricing data were available before the "as of" date specified on its Certificate of Current Cost or Pricing Data, and that the data were not submitted before such date.
- (ii) An offset shall not be allowed if--
  - (A) The understated data were known by the Contractor to be understated before the "as of" date specified on its Certificate of Current Cost or Pricing Data; or
  - (B) The Government proves that the facts demonstrate that the contract price would not have increased in the amount to be offset even if the available data had been submitted before the "as of" date specified on its Certificate of Current Cost or Pricing Data.
- (d) If any reduction in the contract price under this clause reduces the price of items for which payment was made prior to the date of the modification reflecting the price reduction, the Contractor shall be liable to and shall pay the United States at the time such overpayment is repaid--
  - (1) Simple interest on the amount of such overpayment to be computed from the date(s) of overpayment to the Contractor to the date the Government is repaid by the Contractor at the applicable underpayment rate effective for each quarter prescribed by the Secretary of the Treasury under 26 U.S.C. 6621(a)(2); and
  - (2) A penalty equal to the amount of the overpayment, if the Contractor or subcontractor knowingly submitted cost or pricing data that were incomplete, inaccurate, or noncurrent.

(End of clause)

### 16. 52.215-11 Price Reduction for Defective Cost or Pricing Data--Modifications (Oct 1997)

- (a) This clause shall become operative only for any modification to this contract involving a pricing adjustment expected to exceed the threshold for submission of cost or pricing data at FAR 15.403-4, except that this clause does not apply to any modification if an exception under FAR 15.403-1 applies.
- (b) If any price, including profit or fee, negotiated in connection with any modification under this clause, or any cost reimbursable under this contract, was increased by any significant amount because (1) the Contractor or a subcontractor furnished cost or pricing data that were not complete, accurate, and current as certified in its Certificate of Current Cost or Pricing Data, (2) a subcontractor or prospective subcontractor furnished the Contractor cost or pricing data that were not complete, accurate, and current as certified in the Contractor's Certificate of Current Cost or Pricing Data, or (3) any of these parties furnished data of any description that were not accurate, the price or cost shall be reduced accordingly and the contract shall be modified to reflect the reduction. This right to a price reduction is limited to that resulting from defects in data relating to modifications for which this clause becomes operative under paragraph (a) of this clause.
- (c) Any reduction in the contract price under paragraph (b) of this clause due to defective data from a prospective subcontractor that was not subsequently awarded the subcontract shall be limited to the amount, plus applicable overhead and profit markup, by which--
  - (1) The actual subcontract; or
  - (2) The actual cost to the Contractor, if there was no subcontract, was less than the prospective subcontract cost estimate submitted by the Contractor; provided, that the actual subcontract price was not itself affected by defective cost or pricing data.
- (d)(1) If the Contracting Officer determines under paragraph (b) of this clause that a price or cost reduction should be made, the Contractor agrees not to raise the following matters as a defense:
  - (i) The Contractor or subcontractor was a sole source supplier or otherwise was in a superior bargaining position and thus the price of the contract would not have been modified even if accurate, complete, and current cost or pricing data had been submitted.

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- (ii) The Contracting Officer should have known that the cost or pricing data in issue were defective even though the Contractor or subcontractor took no affirmative action to bring the character of the data to the attention of the Contracting Officer.
- (iii) The contract was based on an agreement about the total cost of the contract and there was no agreement about the cost of each item procured under the contract.
- (iv) The Contractor or subcontractor did not submit a Certificate of Current Cost or Pricing Data.
- (2)(i) Except as prohibited by paragraph (d)(2)(ii) of this clause, an offset in an amount determined appropriate by the Contracting Officer based upon the facts shall be allowed against the amount of a contract price reduction if--
  - (A) The Contractor certifies to the Contracting Officer that, to the best of the Contractor's knowledge and belief, the Contractor is entitled to the offset in the amount requested; and
  - (B) The Contractor proves that the cost or pricing data were available before the "as of" date specified on its Certificate of Current Cost or Pricing Data, and that the data were not submitted before such date.
- (ii) An offset shall not be allowed if--
  - (A) The understated data were known by the Contractor to be understated before the "as of" date specified on its Certificate of Current Cost or Pricing Data; or
  - (B) The Government proves that the facts demonstrate that the contract price would not have increased in the amount to be offset even if the available data had been submitted before the "as of" date specified on its Certificate of Current Cost or Pricing Data.
- (e) If any reduction in the contract price under this clause reduces the price of items for which payment was made prior to the date of the modification reflecting the price reduction, the Contractor shall be liable to and shall pay the United States at the time such overpayment is repaid--
  - (1) Simple interest on the amount of such overpayment to be computed from the date(s) of overpayment to the Contractor to the date the Government is repaid by the Contractor at the applicable underpayment rate effective for each quarter prescribed by the Secretary of the Treasury under 26 U.S.C. 6621(a)(2); and
  - (2) A penalty equal to the amount of the overpayment, if the Contractor or subcontractor knowingly submitted cost or pricing data that were incomplete, inaccurate, or noncurrent.

(End of clause)

### 17. 52.215-12 Subcontractor Cost or Pricing Data (Oct 1997)

- (a) Before awarding any subcontract expected to exceed the threshold for submission of cost or pricing data at FAR 15.403-4, on the date of agreement on price or the date of award, whichever is later; or before pricing any subcontract modification involving a pricing adjustment expected to exceed the threshold for submission of cost or pricing data at FAR 15.403-4, the Contractor shall require the subcontractor to submit cost or pricing data (actually or by specific identification in writing), unless an exception under FAR 15.403-1 applies.
- (b) The Contractor shall require the subcontractor to certify in substantially the form prescribed in FAR 15.406-2 that, to the best of its knowledge and belief, the data submitted under paragraph (a) of this clause were accurate, complete, and current as of the date of agreement on the negotiated price of the subcontract or subcontract modification.
- (c) In each subcontract that exceeds the threshold for submission of cost or pricing data at FAR 15.403-4, when entered into, the Contractor shall insert either--
  - (1) The substance of this clause, including this paragraph (c), if paragraph (a) of this clause requires submission of cost or pricing data for the subcontract; or
  - (2) The substance of the clause at FAR 52.215-13, Subcontractor Cost or Pricing Data--Modifications.

(End of clause)

### 18. 52.215-13 Subcontractor Cost or Pricing Data--Modifications (Oct 1997)

- (a) The requirements of paragraphs (b) and (c) of this clause shall--
  - (1) Become operative only for any modification to this contract involving a pricing adjustment expected to exceed the threshold for submission of cost or pricing data at FAR 15.403-4; and
  - (2) Be limited to such modifications.
- (b) Before awarding any subcontract expected to exceed the threshold for submission of cost or pricing data at FAR 15.403-4, on the date of agreement on price or the date of award, whichever is later; or before pricing any subcontract modification involving a pricing adjustment expected to exceed the threshold for submission of cost or pricing data at FAR 15.403-4, the Contractor shall require the subcontractor to submit cost or pricing data (actually or by specific identification in writing), unless an exception under FAR 15.403-1 applies.
- (c) The Contractor shall require the subcontractor to certify in substantially the form prescribed in FAR 15.406-2 that, to the best of its knowledge and belief, the data submitted under paragraph (b) of this clause were accurate, complete, and current as of the date of agreement on the negotiated price of the subcontract or subcontract modification.
- (d) The Contractor shall insert the substance of this clause, including this paragraph (d), in each subcontract that exceeds the threshold for submission of cost or pricing data at FAR 15.403-4 on the date of agreement on price or the date of award, whichever is later.

(End of clause)

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### 19. 52.215-15 Pension Adjustments and Asset Reversions (Oct. 2004)

- (a) The Contractor shall promptly notify the Contracting Officer in writing when it determines that it will terminate a defined-benefit pension plan or otherwise recapture such pension fund assets.
- (b) For segment closings, pension plan terminations, or curtailment of benefits, the amount of the adjustment shall be-
  - (1) For contracts and subcontracts that are subject to full coverage under the Cost Accounting Standards (CAS) Board rules and regulations (48 CFR Chapter 99), the amount measured, assigned, and allocated in accordance with 48 CFR 9904.413-50(c)(12); and
  - (2) For contracts and subcontracts that are not subject to full coverage under the CAS, the amount measured, assigned, and allocated in accordance with 48 CFR 9904.413-50(c)(12), except the numerator of the fraction at 48 CFR 9904.413-50(c)(12)(vi) shall be the sum of the pension plan costs allocated to all non-CAS covered contracts and subcontracts that are subject to Federal Acquisition Regulation (FAR) Subpart 31.2 or for which cost or pricing data were submitted.
- (c) For all other situations where assets revert to the Contractor, or such assets are constructively received by it for any reason, the Contractor shall, at the Government's option, make a refund or give a credit to the Government for its equitable share of the gross amount withdrawn. The Government's equitable share shall reflect the Government's participation in pension costs through those contracts for which cost or pricing data were submitted or that are subject to FAR Subpart 31.2.
- (d) The Contractor shall include the substance of this clause in all subcontracts under this contract that meet the applicability requirement of FAR 15.408(g).

(End of clause)

### 20. 52.215-18 Reversion or Adjustment of Plans for Postretirement Benefits (PRB) Other Than Pensions (Oct 1997)

The Contractor shall promptly notify the Contracting Officer in writing when it determines that it will terminate or reduce a PRB plan. If PRB fund assets revert, or inure, to the Contractor or are constructively received by it under a plan termination or otherwise, the Contractor shall make a refund or give a credit to the Government for its equitable share as required by FAR 31.205-6(o)(6). The Contractor shall include the substance of this clause in all subcontracts under this contract that meet the applicability requirements of FAR 15.408(j).

(End of clause)

### 21. 52.215-19 Notification of Ownership Changes (Oct 1997)

(a) The Contractor shall make the following notifications in writing:

(1) When the Contractor becomes aware that a change in its ownership has occurred, or is certain to occur, that could result in changes in the valuation of its capitalized assets in the accounting records, the Contractor shall notify the Administrative Contracting Officer (ACO) within 30 days.

(2) The Contractor shall also notify the ACO within 30 days whenever changes to asset valuations or any other cost changes have occurred or are certain to occur as a result of a change in ownership.

(b) The Contractor shall--

(1) Maintain current, accurate, and complete inventory records of assets and their costs;

(2) Provide the ACO or designated representative ready access to the records upon request;

(3) Ensure that all individual and grouped assets, their capitalized values, accumulated depreciation or amortization, and remaining useful lives are identified accurately before and after each of the Contractor's ownership changes; and

(4) Retain and continue to maintain depreciation and amortization schedules based on the asset records maintained before each Contractor ownership change.

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(c) The Contractor shall include the substance of this clause in all subcontracts under this contract that meet the applicability requirement of FAR 15.408(k).

(End of clause)

**22. 52.216-1 Type of Contract (Apr 1984)**

The Government contemplates award of a Firm-Fixed contract resulting from this solicitation.

(End of provision)

**23. RESERVED**

**24. RESERVED**

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### 25. 52.219-8 Utilization of Small Business Concerns (May 2004)

(a) It is the policy of the United States that small business concerns, veteran-owned small business concerns, service-disabled veteran-owned small business concerns, HUBZone small business concerns, small disadvantaged business concerns, and women-owned small business concerns shall have the maximum practicable opportunity to participate in performing contracts let by any Federal agency, including contracts and subcontracts for subsystems, assemblies, components, and related services for major systems. It is further the policy of the United States that its prime contractors establish procedures to ensure the timely payment of amounts due pursuant to the terms of their subcontracts with small business concerns, veteran-owned small business concerns, service-disabled veteran-owned small business concerns, HUBZone small business concerns, small disadvantaged business concerns, and women-owned small business concerns.

(b) The Contractor hereby agrees to carry out this policy in the awarding of subcontracts to the fullest extent consistent with efficient contract performance. The Contractor further agrees to cooperate in any studies or surveys as may be conducted by the United States Small Business Administration or the awarding agency of the United States as may be necessary to determine the extent of the Contractor's compliance with this clause.

(c) *Definitions.* As used in this contract-

"HUBZone small business concern" means a small business concern that appears on the List of Qualified HUBZone Small Business Concerns maintained by the Small Business Administration.

"Service-disabled veteran-owned small business concern"-

(1) Means a small business concern-

(i) Not less than 51 percent of which is owned by one or more service-disabled veterans or, in the case of any publicly owned business, not less than 51 percent of the stock of which is owned by one or more service-disabled veterans; and

(ii) The management and daily business operations of which are controlled by one or more service-disabled veterans or, in the case of a service-disabled veteran with permanent and severe disability, the spouse or permanent caregiver of such veteran.

(2) Service-disabled veteran means a veteran, as defined in 38 U.S.C. 101(2), with a disability that is service-connected, as defined in 38 U.S.C. 101(16).

"Small business concern" means a small business as defined pursuant to Section 3 of the Small Business Act and relevant regulations promulgated pursuant thereto.

"Small disadvantaged business concern" means a small business concern that represents, as part of its offer that-

(1) It has received certification as a small disadvantaged business concern consistent with 13 CFR part 124, Subpart B;

(2) No material change in disadvantaged ownership and control has occurred since its certification;

(3) Where the concern is owned by one or more individuals, the net worth of each individual upon whom the certification is based does not exceed \$750,000 after taking into account the applicable exclusions set forth at 13 CFR 124.104(c)(2); and

(4) It is identified, on the date of its representation, as a certified small disadvantaged business in the database maintained by the Small Business Administration (PRO-Net).

"Veteran-owned small business concern" means a small business concern-

(1) Not less than 51 percent of which is owned by one or more veterans (as defined at 38 U.S.C. 101(2)) or, in the case of any publicly owned business, not less than 51 percent of the stock of which is owned by one or more veterans; and

(2) The management and daily business operations of which are controlled by one or more veterans.

"Women-owned small business concern" means a small business concern-

(1) That is at least 51 percent owned by one or more women, or, in the case of any publicly owned business, at least 51 percent of the stock of which is owned by one or more women; and

(2) Whose management and daily business operations are controlled by one or more women.

(d) Contractors acting in good faith may rely on written representations by their subcontractors regarding their status as a small business concern, a veteran-owned small business concern, a service-disabled veteran-owned small business concern, a HUBZone small business concern, a small disadvantaged business concern, or a women-owned small business concern.

(End of clause)

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### 26. 52.219-9 Small Business Subcontracting Plan (Jan 2002)

(a) This clause does not apply to small business concerns.

(b) *Definitions.* As used in this clause-

"Commercial item" means a product or service that satisfies the definition of commercial item in section 2.101 of the Federal Acquisition Regulation.

"Commercial plan" means a subcontracting plan (including goals) that covers the offeror's fiscal year and that applies to the entire production of commercial items sold by either the entire company or a portion thereof (e.g., division, plant, or product line).

"Individual contract plan" means a subcontracting plan that covers the entire contract period (including option periods), applies to a specific contract, and has goals that are based on the offeror's planned subcontracting in support of the specific contract, except that indirect costs incurred for common or joint purposes may be allocated on a prorated basis to the contract.

"Master plan" means a subcontracting plan that contains all the required elements of an individual contract plan, except goals, and may be incorporated into individual contract plans, provided the master plan has been approved.

"Subcontract" means any agreement (other than one involving an employer-employee relationship) entered into by a Federal Government prime Contractor or subcontractor calling for supplies or services required for performance of the contract or subcontract.

(c) The offeror, upon request by the Contracting Officer, shall submit and negotiate a subcontracting plan, where applicable, that separately addresses subcontracting with small business, veteran-owned small business, service-disabled veteran-owned small business, HUBZone small business concerns, small disadvantaged business, and women-owned small business concerns. If the offeror is submitting an individual contract plan, the plan must separately address subcontracting with small business, veteran-owned small business, service-disabled veteran-owned small business, HUBZone small business, small disadvantaged business, and women-owned small business concerns, with a separate part for the basic contract and separate parts for each option (if any). The plan shall be included in and made a part of the resultant contract. The subcontracting plan shall be negotiated within the time specified by the Contracting Officer. Failure to submit and negotiate the subcontracting plan shall make the offeror ineligible for award of a contract.

(d) The offeror's subcontracting plan shall include the following:

(1) Goals, expressed in terms of percentages of total planned subcontracting dollars, for the use of small business, veteran-owned small business, service-disabled veteran-owned small business, HUBZone small business, small disadvantaged business, and women-owned small business concerns as subcontractors. The offeror shall include all subcontracts that contribute to contract performance, and may include a proportionate share of products and services that are normally allocated as indirect costs.

(2) A statement of-

(i) Total dollars planned to be subcontracted for an individual contract plan; or the offeror's total projected sales, expressed in dollars, and the total value of projected subcontracts to support the sales for a commercial plan;

(ii) Total dollars planned to be subcontracted to small business concerns;

(iii) Total dollars planned to be subcontracted to veteran-owned small business concerns;

(iv) Total dollars planned to be subcontracted to service-disabled veteran-owned small business;

(v) Total dollars planned to be subcontracted to HUBZone small business concerns;

(vi) Total dollars planned to be subcontracted to small disadvantaged business concerns; and

(vii) Total dollars planned to be subcontracted to women-owned small business concerns.

(3) A description of the principal types of supplies and services to be subcontracted, and an identification of the types planned for subcontracting to-

(i) Small business concerns;

(ii) Veteran-owned small business concerns;

(iii) Service-disabled veteran-owned small business concerns;

(iv) HUBZone small business concerns;

(v) Small disadvantaged business concerns; and

(vi) Women-owned small business concerns.

(4) A description of the method used to develop the subcontracting goals in paragraph (d)(1) of this clause.

(5) A description of the method used to identify potential sources for solicitation purposes (e.g., existing company source lists, the Procurement Marketing and Access Network (PRO-Net) of the Small Business Administration (SBA), veterans service organizations, the National Minority Purchasing Council Vendor Information Service, the Research and Information Division of the Minority Business Development Agency in the Department of Commerce, or small, HUBZone, small disadvantaged, and women-owned small business trade associations). A firm may rely on the

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information contained in PRO-Net as an accurate representation of a concern's size and ownership characteristics for the purposes of maintaining a small, veteran-owned small, service-disabled veteran-owned small, HUBZone small, small disadvantaged, and women-owned small business source list. Use of PRO-Net as its source list does not relieve a firm of its responsibilities (e.g., outreach, assistance, counseling, or publicizing subcontracting opportunities) in this clause.

(6) A statement as to whether or not the offeror included indirect costs in establishing subcontracting goals, and a description of the method used to determine the proportionate share of indirect costs to be incurred with-

- (i) Small business concerns;
- (ii) Veteran-owned small business concerns;
- (iii) Service-disabled veteran-owned small business concerns;
- (iv) HUBZone small business concerns;
- (v) Small disadvantaged business concerns; and
- (vi) Women-owned small business concerns.

(7) The name of the individual employed by the offeror who will administer the offeror's subcontracting program, and a description of the duties of the individual.

(8) A description of the efforts the offeror will make to assure that small business, veteran-owned small business, service-disabled veteran-owned small business, HUBZone small business, small disadvantaged business, and women-owned small business concerns have an equitable opportunity to compete for subcontracts.

(9) Assurances that the offeror will include the clause of this contract entitled "Utilization of Small Business Concerns" in all subcontracts that offer further subcontracting opportunities, and that the offeror will require all subcontractors (except small business concerns) that receive subcontracts in excess of \$500,000 (\$1,000,000 for construction of any public facility) to adopt a subcontracting plan that complies with the requirements of this clause.

(10) Assurances that the offeror will-

- (i) Cooperate in any studies or surveys as may be required;
- (ii) Submit periodic reports so that the Government can determine the extent of compliance by the offeror with the subcontracting plan;
- (iii) Submit Standard Form (SF) 294, Subcontracting Report for Individual Contracts, and/or SF 295, Summary Subcontract Report, in accordance with paragraph (j) of this clause. The reports shall provide information on subcontract awards to small business concerns, veteran-owned small business concerns, service-disabled veteran-owned small business concerns, HUBZone small business concerns, small disadvantaged business concerns, women-owned small business concerns, and Historically Black Colleges and Universities and Minority Institutions. Reporting shall be in accordance with the instructions on the forms or as provided in agency regulations.
- (iv) Ensure that its subcontractors agree to submit SF 294 and SF 295.

(11) A description of the types of records that will be maintained concerning procedures that have been adopted to comply with the requirements and goals in the plan, including establishing source lists; and a description of the offeror's efforts to locate small business, veteran-owned small business, service-disabled veteran-owned small business, HUBZone small business, small disadvantaged business, and women-owned small business concerns and award subcontracts to them. The records shall include at least the following (on a plant-wide or company-wide basis, unless otherwise indicated):

(i) Source lists (e.g., PRO-Net), guides, and other data that identify small business, veteran-owned small business, service-disabled veteran-owned small business, HUBZone small business, small disadvantaged business, and women-owned small business concerns.

(ii) Organizations contacted in an attempt to locate sources that are small business, veteran-owned small business, service-disabled veteran-owned small business, HUBZone small business, small disadvantaged business, or women-owned small business concerns.

(iii) Records on each subcontract solicitation resulting in an award of more than \$100,000, indicating-

- (A) Whether small business concerns were solicited and, if not, why not;
- (B) Whether veteran-owned small business concerns were solicited and, if not, why not;
- (C) Whether service-disabled veteran-owned small business concerns were solicited and, if not, why not;
- (D) Whether HUBZone small business concerns were solicited and, if not, why not;
- (E) Whether small disadvantaged business concerns were solicited and, if not, why not;
- (F) Whether women-owned small business concerns were solicited and, if not, why not; and
- (G) If applicable, the reason award was not made to a small business concern.

(iv) Records of any outreach efforts to contact-

- (A) Trade associations;
- (B) Business development organizations;
- (C) Conferences and trade fairs to locate small, HUBZone small, small disadvantaged, and women-owned small business sources; and
- (D) Veterans service organizations.

(v) Records of internal guidance and encouragement provided to buyers through-

- (A) Workshops, seminars, training, etc.; and
- (B) Monitoring performance to evaluate compliance with the program's requirements.

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- (vi) On a contract-by-contract basis, records to support award data submitted by the offeror to the Government, including the name, address, and business size of each subcontractor. Contractors having commercial plans need not comply with this requirement.
- (e) In order to effectively implement this plan to the extent consistent with efficient contract performance, the Contractor shall perform the following functions:
- (1) Assist small business, veteran-owned small business, service-disabled veteran-owned small business, HUBZone small business, small disadvantaged business, and women-owned small business concerns by arranging solicitations, time for the preparation of bids, quantities, specifications, and delivery schedules so as to facilitate the participation by such concerns. Where the Contractor's lists of potential small business, veteran-owned small business, service-disabled veteran-owned small business, HUBZone small business, small disadvantaged business, and women-owned small business subcontractors are excessively long, reasonable effort shall be made to give all such small business concerns an opportunity to compete over a period of time.
  - (2) Provide adequate and timely consideration of the potentialities of small business, veteran-owned small business, service-disabled veteran-owned small business, HUBZone small business, small disadvantaged business, and women-owned small business concerns in all "make-or-buy" decisions.
  - (3) Counsel and discuss subcontracting opportunities with representatives of small business, veteran-owned small business, service-disabled veteran-owned small business, HUBZone small business, small disadvantaged business, and women-owned small business firms.
  - (4) Provide notice to subcontractors concerning penalties and remedies for misrepresentations of business status as small, veteran-owned small business, HUBZone small, small disadvantaged, or women-owned small business for the purpose of obtaining a subcontract that is to be included as part or all of a goal contained in the Contractor's subcontracting plan.
- (f) A master plan on a plant or division-wide basis that contains all the elements required by paragraph (d) of this clause, except goals, may be incorporated by reference as a part of the subcontracting plan required of the offeror by this clause; provided-
- (1) The master plan has been approved;
  - (2) The offeror ensures that the master plan is updated as necessary and provides copies of the approved master plan, including evidence of its approval, to the Contracting Officer; and
  - (3) Goals and any deviations from the master plan deemed necessary by the Contracting Officer to satisfy the requirements of this contract are set forth in the individual subcontracting plan.
- (g) A commercial plan is the preferred type of subcontracting plan for contractors furnishing commercial items. The commercial plan shall relate to the offeror's planned subcontracting generally, for both commercial and Government business, rather than solely to the Government contract. Commercial plans are also preferred for subcontractors that provide commercial items under a prime contract, whether or not the prime contractor is supplying a commercial item.
- (h) Prior compliance of the offeror with other such subcontracting plans under previous contracts will be considered by the Contracting Officer in determining the responsibility of the offeror for award of the contract.
- (i) The failure of the Contractor or subcontractor to comply in good faith with-
- (1) The clause of this contract entitled "Utilization Of Small Business Concerns;" or
  - (2) An approved plan required by this clause, shall be a material breach of the contract.
- (j) The Contractor shall submit the following reports:
- (1) *Standard Form 294, Subcontracting Report for Individual Contracts*. This report shall be submitted to the Contracting Officer semiannually and at contract completion. The report covers subcontract award data related to this contract. This report is not required for commercial plans.
  - (2) *Standard Form 295, Summary Subcontract Report*. This report encompasses all of the contracts with the awarding agency. It must be submitted semi-annually for contracts with the Department of Defense and annually for contracts with civilian agencies. If the reporting activity is covered by a commercial plan, the reporting activity must report annually all subcontract awards under that plan. All reports submitted at the close of each fiscal year (both individual and commercial plans) shall include a breakout, in the Contractor's format, of subcontract awards, in whole dollars, to small disadvantaged business concerns by North American Industry Classification System (NAICS) Industry Subsector. For a commercial plan, the Contractor may obtain from each of its subcontractors a predominant NAICS Industry Subsector and report all awards to that subcontractor under its predominant NAICS Industry Subsector.

(End of clause)

*Alternate I (Oct 2001).* When contracting by sealed bidding rather than by negotiation, substitute the following paragraph (c) for paragraph (c) of the basic clause:

- (c) The apparent low bidder, upon request by the Contracting Officer, shall submit a subcontracting plan, where applicable, that separately addresses subcontracting with small business, veteran-owned small business, service-disabled veteran-owned small business, HUBZone small business, small disadvantaged business, and women-owned small business concerns. If the bidder is submitting an individual contract plan, the plan must separately address subcontracting with small business, veteran-owned small business, service-disabled veteran-owned small business, HUBZone small business, small disadvantaged business, and women-owned small business concerns, with a separate



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part for the basic contract and separate parts for each option (if any). The plan shall be included in and made a part of the resultant contract. The subcontracting plan shall be submitted within the time specified by the Contracting Officer. Failure to submit the subcontracting plan shall make the bidder ineligible for the award of a contract.

*Alternate II (Oct 2001).* As prescribed in 19.708(b)(1), substitute the following paragraph (c) for paragraph (c) of the basic clause:

(c) Proposals submitted in response to this solicitation shall include a subcontracting plan that separately addresses subcontracting with small business, veteran-owned small business, service-disabled veteran-owned small business, HUBZone small business, small disadvantaged business, and women-owned small business concerns. If the offeror is submitting an individual contract plan, the plan must separately address subcontracting with small business, veteran-owned small business, service-disabled veteran-owned small business, HUBZone small business, small disadvantaged business, and women-owned small business concerns, with a separate part for the basic contract and separate parts for each option (if any). The plan shall be included in and made a part of the resultant contract. The subcontracting plan shall be negotiated within the time specified by the Contracting Officer. Failure to submit and negotiate a subcontracting plan shall make the offeror ineligible for award of a contract.

### **27. 52.219-16 Liquidated Damages--Subcontracting Plan (Jan 1999)**

(a) "Failure to make a good faith effort to comply with the subcontracting plan", as used in this clause, means a willful or intentional failure to perform in accordance with the requirements of the subcontracting plan approved under the clause in this contract entitled "Small Business Subcontracting Plan," or willful or intentional action to frustrate the plan.

(b) Performance shall be measured by applying the percentage goals to the total actual subcontracting dollars or, if a commercial plan is involved, to the pro rata share of actual subcontracting dollars attributable to Government contracts covered by the commercial plan. If, at contract completion or, in the case of a commercial plan, at the close of the fiscal year for which the plan is applicable, the Contractor has failed to meet its subcontracting goals and the Contracting Officer decides in accordance with paragraph (c) of this clause that the Contractor failed to make a good faith effort to comply with its subcontracting plan, established in accordance with the clause in this contract entitled "Small Business Subcontracting Plan," the Contractor shall pay the Government liquidated damages in an amount stated. The amount of probable damages attributable to the Contractor's failure to comply shall be an amount equal to the actual dollar amount by which the Contractor failed to achieve each subcontract goal.

(c) Before the Contracting Officer makes a final decision that the Contractor has failed to make such good faith effort, the Contracting Officer shall give the Contractor written notice specifying the failure and permitting the Contractor to demonstrate what good faith efforts have been made and to discuss the matter. Failure to respond to the notice may be taken as an admission that no valid explanation exists. If, after consideration of all the pertinent data, the Contracting Officer finds that the Contractor failed to make a good faith effort to comply with the subcontracting plan, the Contracting Officer shall issue a final decision to that effect and require that the Contractor pay the Government liquidated damages as provided in paragraph (b) of this clause.

(d) With respect to commercial plans, the Contracting Officer who approved the plan will perform the functions of the Contracting Officer under this clause on behalf of all agencies with contracts covered by the commercial plan.

(e) The Contractor shall have the right of appeal, under the clause in this contract entitled, Disputes, from any final decision of the Contracting Officer.

(f) Liquidated damages shall be in addition to any other remedies that the Government may have.

**(End of clause)**

### **28. 52.219-22 Small Disadvantaged Business Status (Oct 1999)**

(a) General. This provision is used to assess an offeror's small disadvantaged business status for the purpose of obtaining a benefit on this solicitation. Status as a small business and status as a small disadvantaged business for general statistical purposes is covered by the provision at FAR 52.219-1, Small Business Program Representation.

(b) Representations. (1) General. The offeror represents, as part of its offer, that it is a small business under the size standard applicable to this acquisition; and either--

\* (i) It has received certification by the Small Business Administration as a small disadvantaged business concern consistent with 13 CFR 124, Subpart B; and

(A) No material change in disadvantaged ownership and control has occurred since its certification;

(B) Where the concern is owned by one or more disadvantaged individuals, the net worth of each individual upon whom the certification is based does not exceed \$750,000 after taking into account the applicable exclusions set forth at 13 CFR 124.104(c)(2); and

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(C) It is identified, on the date of its representation, as a certified small disadvantaged business concern in the database maintained by the Small Business Administration (PRO-Net); or

\* (ii) It has submitted a completed application to the Small Business Administration or a Private Certifier to be certified as a small disadvantaged business concern in accordance with 13 CFR 124, Subpart B, and a decision on that application is pending, and that no material change in disadvantaged ownership and control has occurred since its application was submitted.

(2) \* For Joint Ventures. The offeror represents, as part of its offer, that it is a joint venture that complies with the requirements at 13 CFR 124.1002(f) and that the representation in paragraph (b)(1) of this provision is accurate for the small disadvantaged business concern that is participating in the joint venture. [The offeror shall enter the name of the small disadvantaged business concern that is participating in the joint venture: \_\_\_\_\_.]

(c) Penalties and Remedies. Anyone who misrepresents any aspects of the disadvantaged status of a concern for the purposes of securing a contract or subcontract shall--

(1) Be punished by imposition of a fine, imprisonment, or both;

(2) Be subject to administrative remedies, including suspension and debarment; and

(3) Be ineligible for participation in programs conducted under the authority of the Small Business Act.

### (End of provision)

Alternate I (Oct 1998). As prescribed in 19.307(b), add the following paragraph (b)(3) to the basic provision:

(3) Address. The offeror represents that its address \* is, \* is not in a region for which a small disadvantaged business procurement mechanism is authorized and its address has not changed since its certification as a small disadvantaged business concern or submission of its application for certification. The list of authorized small disadvantaged business procurement mechanisms and regions is posted at <http://www.arnet.gov/References/sdbadjustments.htm>. The offeror shall use the list in effect on the date of this solicitation. "Address," as used in this provision, means the address of the offeror as listed on the Small Business Administration's register of small disadvantaged business concerns or the address on the completed application that the concern has submitted to the Small Business Administration or a Private Certifier in accordance with 13 CFR part 124, subpart B. For joint ventures, "address" refers to the address of the small disadvantaged business concern that is participating in the joint venture.

### **29 52.219-23 Notice of Price Evaluation Adjustment for Small Disadvantaged Business Concerns (June 2003)**

(a) *Definitions.* As used in this clause--

"Small disadvantaged business concern" means an offeror that represents, as part of its offer, that it is a small business under the size standard applicable to this acquisition; and either--

(1) It has received certification by the Small Business Administration as a small disadvantaged business concern consistent with 13 CFR part 124, subpart B; and

(i) No material change in disadvantaged ownership and control has occurred since its certification;

(ii) Where the concern is owned by one or more disadvantaged individuals, the net worth of each individual upon whom the certification is based does not exceed \$750,000 after taking into account the applicable exclusions set forth at 13 CFR 124.104(c)(2); and

(iii) It is identified, on the date of its representation, as a certified small disadvantaged business concern in the database maintained by the Small Business Administration (PRO-Net).

(2) It has submitted a completed application to the Small Business Administration or a Private Certifier to be certified as a small disadvantaged business concern in accordance with 13 CFR part 124, subpart B, and a decision on that application is pending, and that no material change in disadvantaged ownership and control has occurred since its application was submitted. In this case, in order to receive the benefit of a price evaluation adjustment, an offeror must receive certification as a small disadvantaged business concern by the Small Business Administration prior to contract award; or

(3) Is a joint venture as defined in 13 CFR 124.1002(f).

"Historically black college or university" means an institution determined by the Secretary of Education to meet the requirements of 34 CFR 608.2. For the Department of Defense (DoD), the National Aeronautics and Space Administration (NASA), and the Coast Guard, the term also includes any nonprofit research institution that was an integral part of such a college or university before November 14, 1986.

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"Minority institution" means an institution of higher education meeting the requirements of Section 1046(3) of the Higher Education Act of 1965 (20 U.S.C. 1067k, including a Hispanic-serving institution of higher education, as defined in Section 316(b)(1) of the Act (20 U.S.C. 1101a)).

*(b) Evaluation adjustment.*

(1) The Contracting Officer will evaluate offers by adding a factor of \_\_\_\_ [*Contracting Officer insert the percentage*] percent to the price of all offers, except-

- (i) Offers from small disadvantaged business concerns that have not waived the adjustment;
- (ii) An otherwise successful offer of eligible products under the Trade Agreements Act when the dollar threshold for application of the Act is equaled or exceeded (see section 25.402 of the Federal Acquisition Regulation (FAR));
- (iii) An otherwise successful offer where application of the factor would be inconsistent with a Memorandum of Understanding or other international agreement with a foreign government;
- (iv) For DoD, NASA, and Coast Guard acquisitions, an otherwise successful offer from a historically black college or university or minority institution; and
- (v) For DoD acquisitions, an otherwise successful offer of qualifying country end products (see sections 225.000-70 and 252.225-7001 of the Defense FAR Supplement).

(2) The Contracting Officer will apply the factor to a line item or a group of line items on which award may be made. The Contracting Officer will apply other evaluation factors described in the solicitation before application of the factor. The factor may not be applied if using the adjustment would cause the contract award to be made at a price that exceeds the fair market price by more than the factor in paragraph (b)(1) of this clause.

*(c) Waiver of evaluation adjustment.* A small disadvantaged business concern may elect to waive the adjustment, in which case the factor will be added to its offer for evaluation purposes. The agreements in paragraph (d) of this clause do not apply to offers that waive the adjustment.

\_\_\_\_\_ Offeror elects to waive the adjustment.

*(d) Agreements.*

(1) A small disadvantaged business concern, that did not waive the adjustment, agrees that in performance of the contract, in the case of a contract for-

- (i) Services, except construction, at least 50 percent of the cost of personnel for contract performance will be spent for employees of the concern;
- (ii) Supplies (other than procurement from a nonmanufacturer of such supplies), at least 50 percent of the cost of manufacturing, excluding the cost of materials, will be performed by the concern;
- (iii) General construction, at least 15 percent of the cost of the contract, excluding the cost of materials, will be performed by employees of the concern; or
- (iv) Construction by special trade contractors, at least 25 percent of the cost of the contract, excluding the cost of materials, will be performed by employees of the concern.

(2) A small disadvantaged business concern submitting an offer in its own name shall furnish in performing this contract only end items manufactured or produced by small disadvantaged business concerns in the United States or its outlying areas. This paragraph does not apply to construction or service contracts.

(End of clause)

*Alternate I (June 2003).* As prescribed in 19.1104, substitute the following paragraph (d)(2) for paragraph (d)(2) of the basic clause:

(2) A small disadvantaged business concern submitting an offer in its own name shall furnish in performing this contract only end items manufactured or produced by small business concerns in the United States or its outlying areas. This paragraph does not apply to construction or service contracts.

*Alternate II (Oct 1998)* As prescribed in 19.1104, substitute the following paragraph (b)(1)(i) for paragraph (b)(1)(i) of the basic clause:

(i) Offers from small disadvantaged business concerns, that have not waived the adjustment, whose address is in a region for which an evaluation adjustment is authorized;

### **30. 52.219-24 Small Disadvantaged Business Participation Program--Targets. (Oct 2000)**

(a) This solicitation contains a source selection factor or subfactor related to the participation of small disadvantaged business (SDB) concerns in the contract. Credit under that evaluation factor or subfactor is not available to an SDB concern that qualifies for a price evaluation adjustment under the clause at FAR 52.219-23, Notice of Price Evaluation Adjustment for Small Disadvantaged Business Concerns, unless the SDB concern specifically waives the price evaluation adjustment.

(b) In order to receive credit under the source selection factor or subfactor, the offeror must provide, with its offer, targets, expressed as dollars and percentages of total contract value, for SDB participation in any of the North American Industry Classification System (NAICS) Industry Subsectors as determined by the Department of

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Commerce. The targets may provide for participation by a prime contractor, joint venture partner, teaming arrangement member, or subcontractor; however, the targets for subcontractors must be listed separately.

(End of provision)

### 31 52.219-25 Small Disadvantaged Business Participation Program-Disadvantaged Status and Reporting. (Oct 1999)

(a) Disadvantaged status for joint venture partners, team members, and subcontractors. This clause addresses disadvantaged status for joint venture partners, teaming arrangement members, and subcontractors and is applicable if this contract contains small disadvantaged business (SDB) participation targets. The Contractor shall obtain representations of small disadvantaged status from joint venture partners, teaming arrangement members, and subcontractors through use of a provision substantially the same as paragraph (b)(1)(i) of the provision at FAR 52.219-22, Small Disadvantaged Business Status. The Contractor shall confirm that a joint venture partner, team member, or subcontractor representing itself as a small disadvantaged business concern, is identified as a certified small disadvantaged business in the database maintained by the Small Business Administration (PRO-Net) or by contacting the SBA's Office of Small Disadvantaged Business Certification and Eligibility.

(b) Reporting requirement. If this contract contains SDB participation targets, the Contractor shall report on the participation of SDB concerns at contract completion, or as otherwise provided in this contract. Reporting may be on Optional Form 312, Small Disadvantaged Business Participation Report, or in the Contractor's own format providing the same information. This report is required for each contract containing SDB participation targets. If this contract contains an individual Small, Small Disadvantaged and Women-Owned Small Business Subcontracting Plan, reports may be submitted with the final Subcontracting Report for Individual Contracts (Standard Form 294) at the completion of the contract.

(End of clause)

### 32 52.219-26 Small Disadvantaged Business Participation Program--Incentive Subcontracting. (Oct 2000)

(a) Of the total dollars it plans to spend under subcontracts, the Contractor has committed itself in its offer to try to award a certain amount to small disadvantaged business concerns in the North American Industry Classification System (NAICS) Industry Subsectors as determined by the Department of Commerce.

(b) If the Contractor exceeds its total monetary target for subcontracting to small disadvantaged business concerns in the authorized, NAICS Industry Subsectors, it will receive \_\_\_\_\_ [Contracting Officer to insert the appropriate number between 0 and 10] percent of the dollars in excess of the monetary target, unless the Contracting Officer determines that the excess was not due to the Contractor's efforts (e.g., a subcontractor cost overrun caused the actual subcontract amount to exceed that estimated in the offer, or the excess was caused by the award of subcontracts that had been planned but had not been disclosed in the offer during contract negotiations). Determinations made under this paragraph are unilateral decisions made solely at the discretion of the Government.

(c) If this is a cost-plus-fixed-fee contract, the sum of the fixed fee and the incentive fee earned under this contract may not exceed the limitations in subsection 15.404-4 of the Federal Acquisition Regulation.

(End of clause)

### 33 52.222-1 Notice to the Government of Labor Disputes (Feb 1997)

If the Contractor has knowledge that any actual or potential labor dispute is delaying or threatens to delay the timely performance of this contract, the Contractor shall immediately give notice, including all relevant information, to the Contracting Officer.

(End of clause)

### 34 52.222-3 Convict Labor (June 2003)

a) Except as provided in paragraph (b) of this clause, the Contractor shall not employ in the performance of this contract any person undergoing a sentence of imprisonment imposed by any court of a State, the District of Columbia, Puerto Rico, the Northern Mariana Islands, American Samoa, Guam, or the U.S. Virgin Islands.

(b) The Contractor is not prohibited from employing persons-

(1) On parole or probation to work at paid employment during the term of their sentence;

(2) Who have been pardoned or who have served their terms; or

(3) Confined for violation of the laws of any of the States, the District of Columbia, Puerto Rico, the Northern Mariana Islands, American Samoa, Guam, or the U.S. Virgin Islands who are authorized to work at paid employment in the community under the laws of such jurisdiction, if-

(i) The worker is paid or is in an approved work training program on a voluntary basis;

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- (ii) Representatives of local union central bodies or similar labor union organizations have been consulted;
- (iii) Such paid employment will not result in the displacement of employed workers, or be applied in skills, crafts, or trades in which there is a surplus of available gainful labor in the locality, or impair existing contracts for services;
- (iv) The rates of pay and other conditions of employment will not be less than those paid or provided for work of a similar nature in the locality in which the work is being performed; and
- (v) The Attorney General of the United States has certified that the work-release laws or regulations of the jurisdiction involved are in conformity with the requirements of Executive Order 11755, as amended by Executive Orders 12608 and 12943.

(End of clause)

### 35. 52.222-26 Equal Opportunity (April 2002)

- (a) *Definition.* "United States," as used in this clause, means the 50 States, the District of Columbia, Puerto Rico, the Northern Mariana Islands, American Samoa, Guam, the U.S. Virgin Islands, and Wake Island.
- (b) If, during any 12-month period (including the 12 months preceding the award of this contract), the Contractor has been or is awarded nonexempt Federal contracts and/or subcontracts that have an aggregate value in excess of \$10,000, the Contractor shall comply with paragraphs (b)(1) through (b)(11) of this clause, except for work performed outside the United States by employees who were not recruited within the United States. Upon request, the Contractor shall provide information necessary to determine the applicability of this clause.
- (1) The Contractor shall not discriminate against any employee or applicant for employment because of race, color, religion, sex, or national origin. However, it shall not be a violation of this clause for the Contractor to extend a publicly announced preference in employment to Indians living on or near an Indian reservation, in connection with employment opportunities on or near an Indian reservation, as permitted by 41 CFR 60-1.5.
- (2) The Contractor shall take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their race, color, religion, sex, or national origin. This shall include, but not be limited to-
- (i) Employment;
  - (ii) Upgrading;
  - (iii) Demotion;
  - (iv) Transfer;
  - (v) Recruitment or recruitment advertising;
  - (vi) Layoff or termination;
  - (vii) Rates of pay or other forms of compensation; and
  - (viii) Selection for training, including apprenticeship.
- (3) The Contractor shall post in conspicuous places available to employees and applicants for employment the notices to be provided by the Contracting Officer that explain this clause.
- (4) The Contractor shall, in all solicitations or advertisements for employees placed by or on behalf of the Contractor, state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex, or national origin.
- (5) The Contractor shall send, to each labor union or representative of workers with which it has a collective bargaining agreement or other contract or understanding, the notice to be provided by the Contracting Officer advising the labor union or workers' representative of the Contractor's commitments under this clause, and post copies of the notice in conspicuous places available to employees and applicants for employment.
- (6) The Contractor shall comply with Executive Order 11246, as amended, and the rules, regulations, and orders of the Secretary of Labor.
- (7) The Contractor shall furnish to the contracting agency all information required by Executive Order 11246, as amended, and by the rules, regulations, and orders of the Secretary of Labor. The Contractor shall also file Standard Form 100 (EEO-1), or any successor form, as prescribed in 41 CFR part 60-1. Unless the Contractor has filed within the 12 months preceding the date of contract award, the Contractor shall, within 30 days after contract award, apply to either the regional Office of Federal Contract Compliance Programs (OFCCP) or the local office of the Equal Employment Opportunity Commission for the necessary forms.
- (8) The Contractor shall permit access to its premises, during normal business hours, by the contracting agency or the OFCCP for the purpose of conducting on-site compliance evaluations and complaint investigations. The Contractor shall permit the Government to inspect and copy any books, accounts, records (including computerized records), and other material that may be relevant to the matter under investigation and pertinent to compliance with Executive Order 11246, as amended, and rules and regulations that implement the Executive Order.
- (9) If the OFCCP determines that the Contractor is not in compliance with this clause or any rule, regulation, or order of the Secretary of Labor, this contract may be canceled, terminated, or suspended in whole or in part and the Contractor may be declared ineligible for further Government contracts, under the procedures authorized in Executive Order 11246, as amended. In addition, sanctions may be imposed and remedies invoked against the Contractor as provided in Executive Order 11246, as amended; in the rules, regulations, and orders of the Secretary of Labor; or as otherwise provided by law.

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(10) The Contractor shall include the terms and conditions of paragraphs (b)(1) through (11) of this clause in every subcontract or purchase order that is not exempted by the rules, regulations, or orders of the Secretary of Labor issued under Executive Order 11246, as amended, so that these terms and conditions will be binding upon each subcontractor or vendor.

(11) The Contractor shall take such action with respect to any subcontract or purchase order as the Contracting Officer may direct as a means of enforcing these terms and conditions, including sanctions for noncompliance, provided, that if the Contractor becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of any direction, the Contractor may request the United States to enter into the litigation to protect the interests of the United States.

(c) Notwithstanding any other clause in this contract, disputes relative to this clause will be governed by the procedures in 41 CFR 60-1.1.

(End of clause)

*Alternate I (Feb 1999).* As prescribed in 22.810(c), add the following as a preamble to the clause:

**Notice:** The following terms of this clause are waived for this contract: \_\_\_\_\_ [Contracting Officer shall list terms].

### 36. 52.222-35 Affirmative Action for Disabled Veterans and Veterans of the Vietnam Era (Dec 2001)

(a) *Definitions.* As used in this clause-

"All employment openings" means all positions except executive and top management, those positions that will be filled from within the Contractor's organization, and positions lasting 3 days or less. This term includes full-time employment, temporary employment of more than 3 days duration, and part-time employment.

"Executive and top management" means any employee-

(1) Whose primary duty consists of the management of the enterprise in which the individual is employed or of a customarily recognized department or subdivision thereof;

(2) Who customarily and regularly directs the work of two or more other employees;

(3) Who has the authority to hire or fire other employees or whose suggestions and recommendations as to the hiring or firing and as to the advancement and promotion or any other change of status of other employees will be given particular weight;

(4) Who customarily and regularly exercises discretionary powers; and

(5) Who does not devote more than 20 percent or, in the case of an employee of a retail or service establishment, who does not devote more than 40 percent of total hours of work in the work week to activities that are not directly and closely related to the performance of the work described in paragraphs (1) through (4) of this definition. This paragraph (5) does not apply in the case of an employee who is in sole charge of an establishment or a physically separated branch establishment, or who owns at least a 20 percent interest in the enterprise in which the individual is employed.

"Other eligible veteran" means any other veteran who served on active duty during a war or in a campaign or expedition for which a campaign badge has been authorized.

"Positions that will be filled from within the Contractor's organization" means employment openings for which the Contractor will give no consideration to persons outside the Contractor's organization (including any affiliates, subsidiaries, and parent companies) and includes any openings the Contractor proposes to fill from regularly established "recall" lists. The exception does not apply to a particular opening once an employer decides to consider applicants outside of its organization.

"Qualified special disabled veteran" means a special disabled veteran who satisfies the requisite skill, experience, education, and other job-related requirements of the employment position such veteran holds or desires, and who, with or without reasonable accommodation, can perform the essential functions of such position.

"Special disabled veteran" means-

(1) A veteran who is entitled to compensation (or who but for the receipt of military retired pay would be entitled to compensation) under laws administered by the Department of Veterans Affairs for a disability-

(i) Rated at 30 percent or more; or

(ii) Rated at 10 or 20 percent in the case of a veteran who has been determined under 38 U.S.C. 3106 to have a serious employment handicap (*i.e.*, a significant impairment of the veteran's ability to prepare for, obtain, or retain employment consistent with the veteran's abilities, aptitudes, and interests); or

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(2) A person who was discharged or released from active duty because of a service-connected disability.

"Veteran of the Vietnam era" means a person who-

(1) Served on active duty for a period of more than 180 days and was discharged or released from active duty with other than a dishonorable discharge, if any part of such active duty occurred-

(i) In the Republic of Vietnam between February 28, 1961, and May 7, 1975; or

(ii) Between August 5, 1964, and May 7, 1975, in all other cases; or

(2) Was discharged or released from active duty for a service-connected disability if any part of the active duty was performed-

(i) In the Republic of Vietnam between February 28, 1961, and May 7, 1975; or

(ii) Between August 5, 1964, and May 7, 1975, in all other cases.

(b) *General.*

(1) The Contractor shall not discriminate against the individual because the individual is a special disabled veteran, a veteran of the Vietnam era, or other eligible veteran, regarding any position for which the employee or applicant for employment is qualified. The Contractor shall take affirmative action to employ, advance in employment, and otherwise treat qualified special disabled veterans, veterans of the Vietnam era, and other eligible veterans without discrimination based upon their disability or veterans' status in all employment practices such as-

(i) Recruitment, advertising, and job application procedures;

(ii) Hiring, upgrading, promotion, award of tenure, demotion, transfer, layoff, termination, right of return from layoff and rehiring;

(iii) Rate of pay or any other form of compensation and changes in compensation;

(iv) Job assignments, job classifications, organizational structures, position descriptions, lines of progression, and seniority lists;

(v) Leaves of absence, sick leave, or any other leave;

(vi) Fringe benefits available by virtue of employment, whether or not administered by the Contractor;

(vii) Selection and financial support for training, including apprenticeship, and on-the-job training under 38 U.S.C. 3687, professional meetings, conferences, and other related activities, and selection for leaves of absence to pursue training;

(viii) Activities sponsored by the Contractor including social or recreational programs; and

(ix) Any other term, condition, or privilege of employment.

(2) The Contractor shall comply with the rules, regulations, and relevant orders of the Secretary of Labor issued under the Vietnam Era Veterans' Readjustment Assistance Act of 1972 (the Act), as amended (38 U.S.C. 4211 and 4212).

(c) *Listing openings.*

(1) The Contractor shall immediately list all employment openings that exist at the time of the execution of this contract and those which occur during the performance of this contract, including those not generated by this contract, and including those occurring at an establishment of the Contractor other than the one where the contract is being performed, but excluding those of independently operated corporate affiliates, at an appropriate local public employment service office of the State wherein the opening occurs. Listing employment openings with the U.S. Department of Labor's America's Job Bank shall satisfy the requirement to list jobs with the local employment service office.

(2) The Contractor shall make the listing of employment openings with the local employment service office at least concurrently with using any other recruitment source or effort and shall involve the normal obligations of placing a bona fide job order, including accepting referrals of veterans and nonveterans. This listing of employment openings does not require hiring any particular job applicant or hiring from any particular group of job applicants and is not intended to relieve the Contractor from any requirements of Executive orders or regulations concerning nondiscrimination in employment.

(3) Whenever the Contractor becomes contractually bound to the listing terms of this clause, it shall advise the State public employment agency in each State where it has establishments of the name and location of each hiring location in the State. As long as the Contractor is contractually bound to these terms and has so advised the State agency, it need not advise the State agency of subsequent contracts. The Contractor may advise the State agency when it is no longer bound by this contract clause.

(d) *Applicability.* This clause does not apply to the listing of employment openings that occur and are filled outside the 50 States, the District of Columbia, the Commonwealth of Puerto Rico, the Commonwealth of the Northern Mariana Islands, American Samoa, Guam, the Virgin Islands of the United States, and Wake Island.

(e) *Postings.*

(1) The Contractor shall post employment notices in conspicuous places that are available to employees and applicants for employment.

(2) The employment notices shall-

(i) State the rights of applicants and employees as well as the Contractor's obligation under the law to take affirmative action to employ and advance in employment qualified employees and applicants who are special disabled veterans, veterans of the Vietnam era, and other eligible veterans; and

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(ii) Be in a form prescribed by the Deputy Assistant Secretary for Federal Contract Compliance Programs, Department of Labor (Deputy Assistant Secretary of Labor), and provided by or through the Contracting Officer.

(3) The Contractor shall ensure that applicants or employees who are special disabled veterans are informed of the contents of the notice (e.g., the Contractor may have the notice read to a visually disabled veteran, or may lower the posted notice so that it can be read by a person in a wheelchair).

(4) The Contractor shall notify each labor union or representative of workers with which it has a collective bargaining agreement, or other contract understanding, that the Contractor is bound by the terms of the Act and is committed to take affirmative action to employ, and advance in employment, qualified special disabled veterans, veterans of the Vietnam era, and other eligible veterans.

(f) *Noncompliance.* If the Contractor does not comply with the requirements of this clause, the Government may take appropriate actions under the rules, regulations, and relevant orders of the Secretary of Labor issued pursuant to the Act.

(g) *Subcontracts.* The Contractor shall insert the terms of this clause in all subcontracts or purchase orders of \$25,000 or more unless exempted by rules, regulations, or orders of the Secretary of Labor. The Contractor shall act as specified by the Deputy Assistant Secretary of Labor to enforce the terms, including action for noncompliance.

(End of clause)

### 37. 52.222-36 Affirmative Action for Workers with Disabilities (Jun 1998)

(a) General. (1) Regarding any position for which the employee or applicant for employment is qualified, the Contractor shall not discriminate against any employee or applicant because of physical or mental disability. The Contractor agrees to take affirmative action to employ, advance in employment, and otherwise treat qualified individuals with disabilities without discrimination based upon their physical or mental disability in all employment practices such as--

(i) Recruitment, advertising, and job application procedures;

(ii) Hiring, upgrading, promotion, award of tenure, demotion, transfer, layoff, termination, right of return from layoff, and rehiring;

(iii) Rates of pay or any other form of compensation and changes in compensation;

(iv) Job assignments, job classifications, organizational structures, position descriptions, lines of progression, and seniority lists;

(v) Leaves of absence, sick leave, or any other leave;

(vi) Fringe benefits available by virtue of employment, whether or not administered by the Contractor;

(vii) Selection and financial support for training, including apprenticeships, professional meetings, conferences, and other related activities, and selection for leaves of absence to pursue training;

(viii) Activities sponsored by the Contractor, including social or recreational programs; and

(ix) Any other term, condition, or privilege of employment.

(2) The Contractor agrees to comply with the rules, regulations, and relevant orders of the Secretary of Labor (Secretary) issued under the Rehabilitation Act of 1973 (29 U.S.C. 793) (the Act), as amended.

(b) Postings. (1) The Contractor agrees to post employment notices stating--

(i) The Contractor's obligation under the law to take affirmative action to employ and advance in employment qualified individuals with disabilities; and (ii) The rights of applicants and employees.

(2) These notices shall be posted in conspicuous places that are available to employees and applicants for employment. The Contractor shall ensure that applicants and employees with disabilities are informed of the contents of the notice (e.g., the Contractor may have the notice read to a visually disabled individual, or may lower the posted notice so that it might be read by a person in a wheelchair). The notices shall be in a form prescribed by the Deputy Assistant Secretary for Federal Contract Compliance of the U.S. Department of Labor (Deputy Assistant Secretary) and shall be provided by or through the Contracting Officer.

(3) The Contractor shall notify each labor union or representative of workers with which it has a collective bargaining agreement or other contract understanding, that the Contractor is bound by the terms of Section 503 of the Act and is committed to take affirmative action to employ, and advance in employment, qualified individuals with physical or mental disabilities.

(c) *Noncompliance.* If the Contractor does not comply with the requirements of this clause, appropriate actions may be taken under the rules, regulations, and relevant orders of the Secretary issued pursuant to the Act.

(d) *Subcontracts.* The Contractor shall include the terms of this clause in every subcontract or purchase order in excess of \$10,000 unless exempted by rules, regulations, or orders of the Secretary. The Contractor shall act as specified by the Deputy Assistant Secretary to enforce the terms, including action for noncompliance.

(End of clause)

### 38. 52.222-37 Employment Reports on Disabled Veterans and Veterans of the Vietnam Era (Dec 2001)



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- (a) Unless the Contractor is a State or local government agency, the Contractor shall report at least annually, as required by the Secretary of Labor, on-
- (1) The number of special disabled veterans, the number of veterans of the Vietnam era, and other eligible veterans in the workforce of the Contractor by job category and hiring location; and
  - (2) The total number of new employees hired during the period covered by the report, and of the total, the number of special disabled veterans, the number of veterans of the Vietnam era, and the number of other eligible veterans; and
  - (3) The maximum number and the minimum number of employees of the Contractor during the period covered by the report.
- (b) The Contractor shall report the above items by completing the Form VETS-100, entitled "Federal Contractor Veterans' Employment Report (VETS-100 Report)".
- (c) The Contractor shall submit VETS-100 Reports no later than September 30 of each year beginning September 30, 1988.
- (d) The employment activity report required by paragraph (a)(2) of this clause shall reflect total hires during the most recent 12-month period as of the ending date selected for the employment profile report required by paragraph (a)(1) of this clause. Contractors may select an ending date-
- (1) As of the end of any pay period between July 1 and August 31 of the year the report is due; or
  - (2) As of December 31, if the Contractor has prior written approval from the Equal Employment Opportunity Commission to do so for purposes of submitting the Employer Information Report EEO-1 (Standard Form 100).
- (e) The Contractor shall base the count of veterans reported according to paragraph (a) of this clause on voluntary disclosure. Each Contractor subject to the reporting requirements at 38 U.S.C. 4212 shall invite all special disabled veterans, veterans of the Vietnam era, and other eligible veterans who wish to benefit under the affirmative action program at 38 U.S.C. 4212 to identify themselves to the Contractor. The invitation shall state that-
- (1) The information is voluntarily provided;
  - (2) The information will be kept confidential;
  - (3) Disclosure or refusal to provide the information will not subject the applicant or employee to any adverse treatment; and
  - (4) The information will be used only in accordance with the regulations promulgated under 38 U.S.C. 4212.
- (f) The Contractor shall insert the terms of this clause in all subcontracts or purchase orders of \$25,000 or more unless exempted by rules, regulations, or orders of the Secretary of Labor.

(End of clause)

### 39. 52.223-3 Hazardous Material Identification and Material Safety Data (Jan 1997)

- (a) "Hazardous material," as used in this clause, includes any material defined as hazardous under the latest version of Federal Standard No. 313 (including revisions adopted during the term of the contract).
- (b) The offeror must list any hazardous material, as defined in paragraph (a) of this clause, to be delivered under this contract. The hazardous material shall be properly identified and include any applicable identification number, such as National Stock Number or Special Item Number. This information shall also be included on the Material Safety Data Sheet submitted under this contract.

Material

(If none, insert "None") Identification No.

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

- (c) This list must be updated during performance of the contract whenever the Contractor determines that any other material to be delivered under this contract is hazardous.
- (d) The apparently successful offeror agrees to submit, for each item as required prior to award, a Material Safety Data Sheet, meeting the requirements of 29 CFR 1910.1200(g) and the latest version of Federal Standard No. 313, for all hazardous material identified in paragraph (b) of this clause. Data shall be submitted in accordance with Federal Standard No. 313, whether or not the apparently successful offeror is the actual manufacturer of these items. Failure to submit the Material Safety Data Sheet prior to award may result in the apparently successful offeror being considered nonresponsible and ineligible for award.

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(e) If, after award, there is a change in the composition of the item(s) or a revision to Federal Standard No. 313, which renders incomplete or inaccurate the data submitted under paragraph (d) of this clause, the Contractor shall promptly notify the Contracting Officer and resubmit the data.

(f) Neither the requirements of this clause nor any act or failure to act by the Government shall relieve the Contractor of any responsibility or liability for the safety of Government, Contractor, or subcontractor personnel or property.

(g) Nothing contained in this clause shall relieve the Contractor from complying with applicable Federal, State, and local laws, codes, ordinances, and regulations (including the obtaining of licenses and permits) in connection with hazardous material.

(h) The Government's rights in data furnished under this contract with respect to hazardous material are as follows:

(1) To use, duplicate and disclose any data to which this clause is applicable. The purposes of this right are to--

(i) Apprise personnel of the hazards to which they may be exposed in using, handling, packaging, transporting, or disposing of hazardous materials;

(ii) Obtain medical treatment for those affected by the material; and

(iii) Have others use, duplicate, and disclose the data for the Government for these purposes.

(2) To use, duplicate, and disclose data furnished under this clause, in accordance with subparagraph (h)(1) of this clause, in precedence over any other clause of this contract providing for rights in data.

(3) The Government is not precluded from using similar or identical data acquired from other sources.

**(End of clause)**

Alternate I (July 1995). If the contract is awarded by an agency other than the Department of Defense, add the following paragraph (i) to the basic clause:

(i) Except as provided in paragraph (i)(2), the Contractor shall prepare and submit a sufficient number of Material Safety Data Sheets (MSDS's), meeting the requirements of 29 CFR 1910.1200(g) and the latest version of Federal Standard No. 313, for all hazardous materials identified in paragraph (b) of this clause.

(1) For items shipped to consignees, the Contractor shall include a copy of the MSDS's with the packing list or other suitable shipping document which accompanies each shipment. Alternatively, the Contractor is permitted to transmit MSDS's to consignees in advance of receipt of shipments by consignees, if authorized in writing by the Contracting Officer.

(2) For items shipped to consignees identified by mailing address as agency depots, distribution centers or customer supply centers, the Contractor shall provide one copy of the MSDS's in or on each shipping container. If affixed to the outside of each container, the MSDS's must be placed in a weather resistant envelope.

### **40. 52.223-6 Drug-Free Workplace. (May 2001)**

(a) Definitions. As used in this clause--

"Controlled substance" means a controlled substance in schedules I through V of section 202 of the Controlled Substances Act (21 U.S.C. 812) and as further defined in regulation at 21 CFR 1308.11 - 1308.15.

"Conviction" means a finding of guilt (including a plea of nolo contendere) or imposition of sentence, or both, by any judicial body charged with the responsibility to determine violations of the Federal or State criminal drug statutes.

"Criminal drug statute" means a Federal or non-Federal criminal statute involving the manufacture, distribution, dispensing, possession, or use of any controlled substance.

"Drug-free workplace" means the site(s) for the performance of work done by the Contractor in connection with a specific contract where employees of the Contractor are prohibited from engaging in the unlawful manufacture, distribution, dispensing, possession, or use of a controlled

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substance.

"Employee" means an employee of a Contractor directly engaged in the performance of work under a Government contract. "Directly engaged" is defined to include all direct cost employees and any other Contractor employee who has other than a minimal impact or involvement in contract performance.

"Individual" means an offeror/contractor that has no more than one employee including the offeror/contractor.

(b) The Contractor, if other than an individual, shall-- within 30 days after award (unless a longer period is agreed to in writing for contracts of 30 days or more performance duration), or as soon as possible for contracts of less than 30 days performance duration--

(1) Publish a statement notifying its employees that the unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance is prohibited in the Contractor's workplace and specifying the actions that will be taken against employees for violations of such prohibition;

(2) Establish an ongoing drug-free awareness program to inform such employees about--

(i) The dangers of drug abuse in the workplace;

(ii) The Contractor's policy of maintaining a drug-free workplace;

(iii) Any available drug counseling, rehabilitation, and employee assistance programs; and

(iv) The penalties that may be imposed upon employees for drug abuse violations occurring in the workplace;

(3) Provide all employees engaged in performance of the contract with a copy of the statement required by subparagraph (b)(1) of this clause;

(4) Notify such employees in writing in the statement required by subparagraph (b)(1) of this clause that, as a condition of continued employment on this contract, the employee will--

(i) Abide by the terms of the statement; and

(ii) Notify the employer in writing of the employee's conviction under a criminal drug statute for a violation occurring in the workplace no later than 5 days after such conviction;

(5) Notify the Contracting Officer in writing within 10 days after receiving notice under subdivision (b)(4)(ii) of this clause, from an employee or otherwise receiving actual notice of such conviction. The notice shall include the position title of the employee;

(6) Within 30 days after receiving notice under subdivision (b)(4)(ii) of this clause of a conviction, take one of the following actions with respect to any employee who is convicted of a drug abuse violation occurring in the workplace:

(i) Taking appropriate personnel action against such employee, up to and including termination; or

(ii) Require such employee to satisfactorily participate in a drug abuse assistance or rehabilitation program approved for such purposes by a Federal, State, or local health, law enforcement, or other appropriate agency; and

(7) Make a good faith effort to maintain a drug-free workplace through implementation of subparagraphs (b)(1) through (b)(6) of this clause.

(c) The Contractor, if an individual, agrees by award of the contract or acceptance of a purchase order, not to engage in the unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance while performing this contract.

(d) In addition to other remedies available to the Government, the Contractor's failure to comply with the requirements of paragraph (b) or (c) of this clause may, pursuant to FAR 23.506, render

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the Contractor subject to suspension of contract payments, termination of the contract or default, and suspension or debarment.

(End of clause)

### 41. 52.223-13 Certification of Toxic Chemical Release Reporting (Aug 2003)

(a) Executive Order 13148, of April 21, 2000, Greening the Government through Leadership in Environmental Management, requires submission of this certification as a prerequisite for contract award.

(b) By signing this offer, the offeror certifies that-

(1) As the owner or operator of facilities that will be used in the performance of this contract that are subject to the filing and reporting requirements described in section 313 of the Emergency Planning and Community Right-to-Know Act of 1986 (EPCRA) (42 U.S.C. 11023) and section 6607 of the Pollution Prevention Act of 1990 (PPA) (42 U.S.C. 13106), the offeror will file and continue to file for such facilities for the life of the contract the Toxic Chemical Release Inventory Form (Form R) as described in sections 313(a) and (g) of EPCRA and section 6607 of PPA; or  
(2) None of its owned or operated facilities to be used in the performance of this contract is subject to the Form R filing and reporting requirements because each such facility is exempt for at least one of the following reasons: [Check each block that is applicable.]

☐ (i) The facility does not manufacture, process, or otherwise use any toxic chemicals listed in 40 CFR 372.65;

☐ (ii) The facility does not have 10 or more full-time employees as specified in section 313(b)(1)(A) of EPCRA, 42 U.S.C. 11023(b)(1)(A);

☐ (iii) The facility does not meet the reporting thresholds of toxic chemicals established under section 313(f) of EPCRA, 42 U.S.C. 11023(f) (including the alternate thresholds at 40 CFR 372.27, provided an appropriate certification form has been filed with EPA);

☐ (iv) The facility does not fall within the following Standard Industrial Classification (SIC) codes or their corresponding North American Industry Classification System sectors:

(A) Major group code 10 (except 1011, 1081, and 1094.

(B) Major group code 12 (except 1241).

(C) Major group codes 20 through 39.

(D) Industry code 4911, 4931, or 4939 (limited to facilities that combust coal and/or oil for the purpose of generating power for distribution in commerce).

(E) Industry code 4953 (limited to facilities regulated under the Resource Conservation and Recovery Act, Subtitle C (42 U.S.C. 6921, *et seq.*), or 5169, or 5171, or 7389 (limited to facilities primarily engaged in solvent recovery services on a contract or fee basis); or

☐ (v) The facility is not located in the United States or its outlying areas.

(End of provision)

### 42. 52.223-14 Toxic Chemical Release Reporting (Aug 2003)

(a) Unless otherwise exempt, the Contractor, as owner or operator of a facility used in the performance of this contract, shall file by July 1 for the prior calendar year an annual Toxic Chemical Release Inventory Form (Form R) as described in sections 313(a) and (g) of the Emergency Planning and Community Right-to-Know Act of 1986 (EPCRA) (42 U.S.C. 11023(a) and (g)), and section 6607 of the Pollution Prevention Act of 1990 (PPA) (42 U.S.C. 13106). The Contractor shall file, for each facility subject to the Form R filing and reporting requirements, the annual Form R throughout the life of the contract.

(b) A Contractor-owned or -operated facility used in the performance of this contract is exempt from the requirement to file an annual Form R if-

(1) The facility does not manufacture, process, or otherwise use any toxic chemicals listed in 40 CFR 372.65;

(2) The facility does not have 10 or more full-time employees as specified in section 313(b)(1)(A) of EPCRA, 42 U.S.C. 11023(b)(1)(A);

(3) The facility does not meet the reporting thresholds of toxic chemicals established under section 313(f) of EPCRA, 42 U.S.C. 11023(f) (including the alternate thresholds at 40 CFR 372.27, provided an appropriate certification form has been filed with EPA);

(4) The facility does not fall within the following Standard Industrial Classification (SIC) codes or their corresponding North American Industry Classification System sectors:

(i) Major group code 10 (except 1011, 1081, and 1094.

(ii) Major group code 12 (except 1241).

(iii) Major group codes 20 through 39.

(iv) Industry code 4911, 4931, or 4939 (limited to facilities that combust coal and/or oil for the purpose of generating power for distribution in commerce).

(v) Industry code 4953 (limited to facilities regulated under the Resource Conservation and Recovery Act, Subtitle C (42 U.S.C. 6921, *et seq.*), or 5169, or 5171, or 7389 (limited to facilities primarily engaged in solvent recovery services on a contract or fee basis); or

(5) The facility is not located in the United States or its outlying areas.

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(c) If the Contractor has certified to an exemption in accordance with one or more of the criteria in paragraph (b) of this clause, and after award of the contract circumstances change so that any of its owned or operated facilities used in the performance of this contract is no longer exempt-

(1) The Contractor shall notify the Contracting Officer; and

(2) The Contractor, as owner or operator of a facility used in the performance of this contract that is no longer exempt, shall-

(i) Submit a Toxic Chemical Release Inventory Form (Form R) on or before July 1 for the prior calendar year during which the facility becomes eligible; and

(ii) Continue to file the annual Form R for the life of the contract for such facility.

(d) The Contracting Officer may terminate this contract or take other action as appropriate, if the Contractor fails to comply accurately and fully with the EPCRA and PPA toxic chemical release filing and reporting requirements.

(e) Except for acquisitions of commercial items as defined in FAR Part 2, the Contractor shall-

(1) For competitive subcontracts expected to exceed \$100,000 (including all options), include a solicitation provision substantially the same as the provision at FAR 52.223-13, Certification of Toxic Chemical Release Reporting; and

(2) Include in any resultant subcontract exceeding \$100,000 (including all options), the substance of this clause, except this paragraph (e).

(End of clause)

### 43. 52.225-13 Restrictions on Certain Foreign Purchases (Dec. 2003)

(a) Except as authorized by the Office of Foreign Assets Control (OFAC) in the Department of the Treasury, the Contractor shall not acquire, for use in the performance of this contract, any supplies or services if any proclamation, Executive order, or statute administered by OFAC, or if OFAC's implementing regulations at 31 CFR chapter V, would prohibit such a transaction by a person subject to the jurisdiction of the United States.

(b) Except as authorized by OFAC, most transactions involving Cuba, Iran, Libya, and Sudan are prohibited, as are most imports from North Korea, into the United States or its outlying areas. Lists of entities and individuals subject to economic sanctions are included in OFAC's List of Specially Designated Nationals and Blocked Persons at <http://www.epls.gov/TerList1.html>. More information about these restrictions, as well as updates, is available in the OFAC's regulations at 31 CFR chapter V and/or on OFAC's website at <http://www.treas.gov/ofac>.

(c) The Contractor shall insert this clause, including this paragraph (c), in all subcontracts.

(End of clause)

### 44. 52.227-1 Authorization and Consent (Jul 1995)

(a) The Government authorizes and consents to all use and manufacture, in performing this contract or any subcontract at any tier, of any invention described in and covered by a United States patent (1) embodied in the structure or composition of any article the delivery of which is accepted by the Government under this contract or (2) used in machinery, tools, or methods whose use necessarily results from compliance by the Contractor or a subcontractor with (i) specifications or written provisions forming a part of this contract or (ii) specific written instructions given by the Contracting Officer directing the manner of performance. The entire liability to the Government for infringement of a patent of the United States shall be determined solely by the provisions of the indemnity clause, if any, included in this contract or any subcontract hereunder (including any lower-tier subcontract), and the Government assumes liability for all other infringement to the extent of the authorization and consent herein above granted.

(b) The Contractor agrees to include, and require inclusion of, this clause, suitably modified to identify the parties, in all subcontracts at any tier for supplies or services (including construction, architect-engineer services, and materials, supplies, models, samples, and design or testing services expected to exceed the simplified acquisition threshold); however, omission of this clause from any subcontract, including those at or below the simplified acquisition threshold, does not affect this authorization and consent.

(End of clause)

### 45. 52.227-23 Rights to Proposal Data (Technical). (June 1987)

Except for data contained on pages \_\_\_\_\_, it is agreed that as a condition of award of this contract, and notwithstanding the conditions of any notice appearing thereon, the Government shall have unlimited rights (as defined in the "Rights in Data--General" clause contained in this contract) in and to the technical data contained in the proposal dated \_\_\_\_\_, upon which this contract is based.

(End of clause)

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### 46. 52.228-5 Insurance--Work on a Government Installation (Jan 1997)

- (a) The Contractor shall, at its own expense, provide and maintain during the entire performance of this contract, at least the kinds and minimum amounts of insurance required in the Schedule or elsewhere in the contract.
- (b) Before commencing work under this contract, the Contractor shall notify the Contracting Officer in writing that the required insurance has been obtained. The policies evidencing required insurance shall contain an endorsement to the effect that any cancellation or any material change adversely affecting the Government's interest shall not be effective--
- (1) For such period as the laws of the State in which this contract is to be performed prescribe; or (2) Until 30 days after the insurer or the Contractor gives written notice to the Contracting Officer, whichever period is longer.
- (c) The Contractor shall insert the substance of this clause, including this paragraph (c), in subcontracts under this contract that require work on a Government installation and shall require subcontractors to provide and maintain the insurance required in the Schedule or elsewhere in the contract. The Contractor shall maintain a copy of all subcontractors' proofs of required insurance, and shall make copies available to the Contracting Officer upon request.

(End of clause)

### 47 52.229-3 Federal, State, and Local Taxes (Apr 2003)

- (a) As used in this clause--

"After-imposed Federal tax" means any new or increased Federal excise tax or duty, or tax that was exempted or excluded on the contract date but whose exemption was later revoked or reduced during the contract period, on the transactions or property covered by this contract that the Contractor is required to pay or bear as the result of legislative, judicial, or administrative action taking effect after the contract date. It does not include social security tax or other employment taxes.

"After-relieved Federal tax" means any amount of Federal excise tax or duty, except social security or other employment taxes, that would otherwise have been payable on the transactions or property covered by this contract, but which the Contractor is not required to pay or bear, or for which the Contractor obtains a refund or drawback, as the result of legislative, judicial, or administrative action taking effect after the contract date.

"All applicable Federal, State, and local taxes and duties" means all taxes and duties, in effect on the contract date, that the taxing authority is imposing and collecting on the transactions or property covered by this contract.

"Contract date" means the date set for bid opening or, if this is a negotiated contract or a modification, the effective date of this contract or modification.

"Local taxes" includes taxes imposed by a possession or territory of the United States, Puerto Rico, or the Northern Mariana Islands, if the contract is performed wholly or partly in any of those areas.

- (b) The contract price includes all applicable Federal, State, and local taxes and duties.
- (c) The contract price shall be increased by the amount of any after-imposed Federal tax, provided the Contractor warrants in writing that no amount for such newly imposed Federal excise tax or duty or rate increase was included in the contract price, as a contingency reserve or otherwise.
- (d) The contract price shall be decreased by the amount of any after-relieved Federal tax.
- (e) The contract price shall be decreased by the amount of any Federal excise tax or duty, except social security or other employment taxes, that the Contractor is required to pay or bear, or does not obtain a refund of, through the Contractor's fault, negligence, or failure to follow instructions of the Contracting Officer.
- (f) No adjustment shall be made in the contract price under this clause unless the amount of the adjustment exceeds \$250.
- (g) The Contractor shall promptly notify the Contracting Officer of all matters relating to any Federal excise tax or duty that reasonably may be expected to result in either an increase or decrease in the contract price and shall take appropriate action as the Contracting Officer directs.
- (h) The Government shall, without liability, furnish evidence appropriate to establish exemption from any Federal, State, or local tax when the Contractor requests such evidence and a reasonable basis exists to sustain the exemption.

(End of clause)

### 48 52.232-8 Discounts for Prompt Payment (Feb 2002)

- (a) Discounts for prompt payment will not be considered in the evaluation of offers. However, any offered discount will form a part of the award, and will be taken if payment is made within the discount period indicated in the offer by the offeror. As an alternative to offering a discount for prompt payment in conjunction with the offer, offerors awarded contracts may include discounts for prompt payment on individual invoices.

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(b) In connection with any discount offered for prompt payment, time shall be computed from the date of the invoice. If the Contractor has not placed a date on the invoice, the due date shall be calculated from the date the designated billing office receives a proper invoice, provided the agency annotates such invoice with the date of receipt at the time of receipt. For the purpose of computing the discount earned, payment shall be considered to have been made on the date that appears on the payment check or, for an electronic funds transfer, the specified payment date. When the discount date falls on a Saturday, Sunday, or legal holiday when Federal Government offices are closed and Government business is not expected to be conducted, payment may be made on the following business day.

(End of clause)

### 49. 52.232-11 Extras (Apr 1984)

Except as otherwise provided in this contract, no payment for extras shall be made unless such extras and the price therefor have been authorized in writing by the Contracting Officer.

(End of clause)

### 50. 52.232-17 Interest (Jun 1996)

(a) Except as otherwise provided in this contract under a Price Reduction for Defective Cost or Pricing Data clause or a Cost Accounting Standards clause, all amounts that become payable by the Contractor to the Government under this contract (net of any applicable tax credit under the Internal Revenue Code (26 U.S.C. 1481)) shall bear simple interest from the date due until paid unless paid within 30 days of becoming due. The interest rate shall be the interest rate established by the Secretary of the Treasury as provided in Section 12 of the Contract Disputes Act of 1978 (Public Law 95-563), which is applicable to the period in which the amount becomes due, as provided in paragraph (b) of this clause, and then at the rate applicable for each six-month period as fixed by the Secretary until the amount is paid.

(b) Amounts shall be due at the earliest of the following dates:

(1) The date fixed under this contract.

(2) The date of the first written demand for payment consistent with this contract, including any demand resulting from a default termination.

(3) The date the Government transmits to the Contractor a proposed supplemental agreement to confirm completed negotiations establishing the amount of debt.

(4) If this contract provides for revision of prices, the date of written notice to the Contractor stating the amount of refund payable in connection with a pricing proposal or a negotiated pricing agreement not confirmed by contract modification.

(c) The interest charge made under this clause may be reduced under the procedures prescribed in 32.614-2 of the Federal Acquisition Regulation in effect on the date of this contract.

(End of clause)

### 51. 52.232-18 Availability of Funds (Apr 1984)

Funds are not presently available for this contract. The Government's obligation under this contract is contingent upon the availability of appropriated funds from which payment for contract purposes can be made. No legal liability on the part of the Government for any payment may arise until funds are made available to the Contracting Officer for this contract and until the Contractor receives notice of such availability, to be confirmed in writing by the Contracting Officer.

(End of clause)

### 52. 52.232-23 Assignment of Claims (Jan 1986)

(a) The Contractor, under the Assignment of Claims Act, as amended, 31 U.S.C. 3727, 41 U.S.C. 15 (hereafter referred to as "the Act"), may assign its rights to be paid amounts due or to become due as a result of the performance of this contract to a bank, trust company, or other financing institution, including any Federal lending agency. The assignee under such an assignment may thereafter further assign or reassign its right under the original assignment to any type of financing institution described in the preceding sentence.

(b) Any assignment or reassignment authorized under the Act and this clause shall cover all unpaid amounts payable under this contract, and shall not be made to more than one party, except that an assignment or reassignment may be made to one party as agent or trustee for two or more parties participating in the financing of this contract.

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(c) The Contractor shall not furnish or disclose to any assignee under this contract any classified document (including this contract) or information related to work under this contract until the Contracting Officer authorizes such action in writing.

(End of clause)

### 53. 52.232-25 Prompt Payment (Oct. 2003)

Notwithstanding any other payment clause in this contract, the Government will make invoice payments under the terms and conditions specified in this clause. The Government considers payment as being made on the day a check is dated or the date of an electronic funds transfer (EFT). Definitions of pertinent terms are set forth in sections 2.101, 32.001, and 32.902 of the Federal Acquisition Regulation. All days referred to in this clause are calendar days, unless otherwise specified. (However, see paragraph (a)(4) of this clause concerning payments due on Saturdays, Sundays, and legal holidays.)

#### (a) *Invoice payments-*

##### (1) *Due date.*

(i) Except as indicated in paragraphs (a)(2) and (c) of this clause, the due date for making invoice payments by the designated payment office is the later of the following two events:

(A) The 30th day after the designated billing office receives a proper invoice from the Contractor (except as provided in paragraph (a)(1)(ii) of this clause).

(B) The 30th day after Government acceptance of supplies delivered or services performed. For a final invoice, when the payment amount is subject to contract settlement actions, acceptance is deemed to occur on the effective date of the contract settlement.

(ii) If the designated billing office fails to annotate the invoice with the actual date of receipt at the time of receipt, the invoice payment due date is the 30th day after the date of the Contractor's invoice, provided the designated billing office receives a proper invoice and there is no disagreement over quantity, quality, or Contractor compliance with contract requirements.

##### (2) *Certain food products and other payments.*

(i) Due dates on Contractor invoices for meat, meat food products, or fish; perishable agricultural commodities; and dairy products, edible fats or oils, and food products prepared from edible fats or oils are-

(A) For meat or meat food products, as defined in section 2(a)(3) of the Packers and Stockyard Act of 1921 (7 U.S.C. 182(3)), and as further defined in Pub. L. 98-181, including any edible fresh or frozen poultry meat, any perishable poultry meat food product, fresh eggs, and any perishable egg product, as close as possible to, but not later than, the 7th day after product delivery.

(B) For fresh or frozen fish, as defined in section 204(3) of the Fish and Seafood Promotion Act of 1986 (16 U.S.C. 4003(3)), as close as possible to, but not later than, the 7th day after product delivery.

(C) For perishable agricultural commodities, as defined in section 1(4) of the Perishable Agricultural Commodities Act of 1930 (7 U.S.C. 499a(4)), as close as possible to, but not later than, the 10th day after product delivery, unless another date is specified in the contract.

(D) For dairy products, as defined in section 111(e) of the Dairy Production Stabilization Act of 1983 (7 U.S.C. 4502(e)), edible fats or oils, and food products prepared from edible fats or oils, as close as possible to, but not later than, the 10th day after the date on which a proper invoice has been received. Liquid milk, cheese, certain processed cheese products, butter, yogurt, ice cream, mayonnaise, salad dressings, and other similar products, fall within this classification. Nothing in the Act limits this classification to refrigerated products. When questions arise regarding the proper classification of a specific product, prevailing industry practices will be followed in specifying a contract payment due date. The burden of proof that a classification of a specific product is, in fact, prevailing industry practice is upon the Contractor making the representation.

(ii) If the contract does not require submission of an invoice for payment (e.g., periodic lease payments), the due date will be as specified in the contract.

(3) *Contractor's invoice.* The Contractor shall prepare and submit invoices to the designated billing office specified in the contract. A proper invoice must include the items listed in paragraphs (a)(3)(i) through (a)(3)(x) of this clause. If the invoice does not comply with these requirements, the designated billing office will return it within 7 days after receipt (3 days for meat, meat food products, or fish; 5 days for perishable agricultural commodities, dairy products, edible fats or oils, and food products prepared from edible fats or oils), with the reasons why it is not a proper invoice. The Government will take into account untimely notification when computing any interest penalty owed the Contractor.

(i) Name and address of the Contractor.

(ii) Invoice date and invoice number. (The Contractor should date invoices as close as possible to the date of the mailing or transmission.)

(iii) Contract number or other authorization for supplies delivered or services performed (including order number and contract line item number).



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- (iv) Description, quantity, unit of measure, unit price, and extended price of supplies delivered or services performed.
  - (v) Shipping and payment terms (e.g., shipment number and date of shipment, discount for prompt payment terms). Bill of lading number and weight of shipment will be shown for shipments on Government bills of lading.
  - (vi) Name and address of Contractor official to whom payment is to be sent (must be the same as that in the contract or in a proper notice of assignment).
  - (vii) Name (where practicable), title, phone number, and mailing address of person to notify in the event of a defective invoice.
  - (viii) Taxpayer Identification Number (TIN). The Contractor shall include its TIN on the invoice only if required elsewhere in this contract.
  - (ix) Electronic funds transfer (EFT) banking information.
    - (A) The Contractor shall include EFT banking information on the invoice only if required elsewhere in this contract.
    - (B) If EFT banking information is not required to be on the invoice, in order for the invoice to be a proper invoice, the Contractor shall have submitted correct EFT banking information in accordance with the applicable solicitation provision (e.g., 52.232-38, Submission of Electronic Funds Transfer Information with Offer), contract clause (e.g., 52.232-33, Payment by Electronic Funds Transfer-Central Contractor Registration, or 52.232-34, Payment by Electronic Funds Transfer-Other Than Central Contractor Registration), or applicable agency procedures.
    - (C) EFT banking information is not required if the Government waived the requirement to pay by EFT.
  - (x) Any other information or documentation required by the contract (e.g., evidence of shipment).
- (4) *Interest penalty.* The designated payment office will pay an interest penalty automatically, without request from the Contractor, if payment is not made by the due date and the conditions listed in paragraphs (a)(4)(i) through (a)(4)(iii) of this clause are met, if applicable. However, when the due date falls on a Saturday, Sunday, or legal holiday, the designated payment office may make payment on the following working day without incurring a late payment interest penalty.
- (i) The designated billing office received a proper invoice.
  - (ii) The Government processed a receiving report or other Government documentation authorizing payment, and there was no disagreement over quantity, quality, or Contractor compliance with any contract term or condition.
  - (iii) In the case of a final invoice for any balance of funds due the Contractor for supplies delivered or services performed, the amount was not subject to further contract settlement actions between the Government and the Contractor.
- (5) *Computing penalty amount.* The Government will compute the interest penalty in accordance with the Office of Management and Budget prompt payment regulations at 5 CFR part 1315.
- (i) For the sole purpose of computing an interest penalty that might be due the Contractor, Government acceptance is deemed to occur constructively on the 7th day (unless otherwise specified in this contract) after the Contractor delivers the supplies or performs the services in accordance with the terms and conditions of the contract, unless there is a disagreement over quantity, quality, or Contractor compliance with a contract provision. If actual acceptance occurs within the constructive acceptance period, the Government will base the determination of an interest penalty on the actual date of acceptance. The constructive acceptance requirement does not, however, compel Government officials to accept supplies or services, perform contract administration functions, or make payment prior to fulfilling their responsibilities.
  - (ii) The prompt payment regulations at 5 CFR 1315.10(c) do not require the Government to pay interest penalties if payment delays are due to disagreement between the Government and the Contractor over the payment amount or other issues involving contract compliance, or on amounts temporarily withheld or retained in accordance with the terms of the contract. The Government and the Contractor shall resolve claims involving disputes and any interest that may be payable in accordance with the clause at FAR 52.233-1, Disputes.
- (6) *Discounts for prompt payment.* The designated payment office will pay an interest penalty automatically, without request from the Contractor, if the Government takes a discount for prompt payment improperly. The Government will calculate the interest penalty in accordance with the prompt payment regulations at 5 CFR part 1315.

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### (7) *Additional interest penalty.*

(i) The designated payment office will pay a penalty amount, calculated in accordance with the prompt payment regulations at 5 CFR part 1315 in addition to the interest penalty amount only if-

(A) The Government owes an interest penalty of \$1 or more;

(B) The designated payment office does not pay the interest penalty within 10 days after the date the invoice amount is paid; and

(C) The Contractor makes a written demand to the designated payment office for additional penalty payment, in accordance with paragraph (a)(7)(ii) of this clause, postmarked not later than 40 days after the invoice amount is paid.

(ii)(A) The Contractor shall support written demands for additional penalty payments with the following data. The Government will not request any additional data. The Contractor shall-

(1) Specifically assert that late payment interest is due under a specific invoice, and request payment of all overdue late payment interest penalty and such additional penalty as may be required;

(2) Attach a copy of the invoice on which the unpaid late payment interest is due; and

(3) State that payment of the principal has been received, including the date of receipt.

(B) If there is no postmark or the postmark is illegible-

(1) The designated payment office that receives the demand will annotate it with the date of receipt, provided the demand is received on or before the 40th day after payment was made; or

(2) If the designated payment office fails to make the required annotation, the Government will determine the demand's validity based on the date the Contractor has placed on the demand, provided such date is no later than the 40th day after payment was made.

(iii) The additional penalty does not apply to payments regulated by other Government regulations (e.g., payments under utility contracts subject to tariffs and regulation).

(b) *Contract financing payment.* If this contract provides for contract financing, the Government will make contract financing payments in accordance with the applicable contract financing clause.

(c) *Fast payment procedure due dates.* If this contract contains the clause at 52.213-1, Fast Payment Procedure, payments will be made within 15 days after the date of receipt of the invoice.

(d) *Overpayments.* If the Contractor becomes aware of a duplicate contract financing or invoice payment or that the Government has otherwise overpaid on a contract financing or invoice payment, the Contractor shall immediately notify the Contracting Officer and request instructions for disposition of the overpayment.

(End of clause)

### **54 52.232-26 Prompt Payment for Fixed-Price Architect-Engineer Contracts (Feb 2002)**

Notwithstanding any other payment terms in this contract, the Government will make invoice payments under the terms and conditions specified in this clause. The Government considers payment as being made on the day a check is dated or the date of an electronic funds transfer. Definitions of pertinent terms are set forth in sections 2.101, 32.001, and 32.902 of the Federal Acquisition Regulation. All days referred to in this clause are calendar days, unless otherwise specified. (However, see paragraph (a)(3) of this clause concerning payments due on Saturdays, Sundays, and legal holidays.)

#### (a) *Invoice payments-*

(1) *Due date.* The due date for making invoice payments is-

(i) For work or services completed by the Contractor, the later of the following two events:

(A) The 30th day after the designated billing office receives a proper invoice from the Contractor (except as provided in paragraph (a)(1)(iii) of this clause).

(B) The 30th day after Government acceptance of the work or services completed by the Contractor. For a final invoice, when the payment amount is subject to contract settlement actions (e.g., release of claims), acceptance is deemed to occur on the effective date of the settlement.

(ii) The due date for progress payments is the 30th day after Government approval of Contractor estimates of work or services accomplished.

(iii) If the designated billing office fails to annotate the invoice or payment request with the actual date of receipt at the time of receipt, the payment due date is the 30th day after the date of the Contractor's invoice or payment request, provided the designated billing office receives a proper invoice or payment request and there is no disagreement over quantity, quality, or Contractor compliance with contract requirements.

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(2) *Contractor's invoice.* The Contractor shall prepare and submit invoices to the designated billing office specified in the contract. A proper invoice must include the items listed in paragraphs (a)(2)(i) through (a)(2)(x) of this clause. If the invoice does not comply with these requirements, the designated billing office will return it within 7 days after receipt, with the reasons why it is not a proper invoice. When computing any interest penalty owed the Contractor, the Government will take into account if the Government notifies the Contractor of an improper invoice in an untimely manner.

(i) Name and address of the Contractor.

(ii) Invoice date and invoice number. (The Contractor should date invoices as close as possible to the date of mailing or transmission.)

(iii) Contract number or other authorization for work or services performed (including order number and contract line item number).

(iv) Description of work or services performed.

(v) Delivery and payment terms (e.g., discount for prompt payment terms).

(vi) Name and address of Contractor official to whom payment is to be sent (must be the same as that in the contract or in a proper notice of assignment).

(vii) Name (where practicable), title, phone number, and mailing address of person to notify in the event of a defective invoice.

(viii) Taxpayer Identification Number (TIN). The Contractor shall include its TIN on the invoice only if required elsewhere in this contract.

(ix) Electronic funds transfer (EFT) banking information.

(A) The Contractor shall include EFT banking information on the invoice only if required elsewhere in this contract.

(B) If EFT banking information is not required to be on the invoice, in order for the invoice to be a proper invoice, the Contractor shall have submitted correct EFT banking information in accordance with the applicable solicitation provision (e.g., 52.232-38, Submission of Electronic Funds Transfer Information with Offer), contract clause (e.g., 52.232-33, Payment by Electronic Funds Transfer-Central Contractor Registration, or 52.232-34, Payment by Electronic Funds Transfer-Other Than Central Contractor Registration), or applicable agency procedures.

(C) EFT banking information is not required if the Government waived the requirement to pay by EFT.

(x) Any other information or documentation required by the contract.

(3) *Interest penalty.* The designated payment office will pay an interest penalty automatically, without request from the Contractor, if payment is not made by the due date and the conditions listed in paragraphs (a)(3)(i) through (a)(3)(iii) of this clause are met, if applicable. However, when the due date falls on a Saturday, Sunday, or legal holiday, the designated payment office may make payment on the following working day without incurring a late payment interest penalty.

(i) The designated billing office received a proper invoice.

(ii) The Government processed a receiving report or other Government documentation authorizing payment and there was no disagreement over quantity, quality, Contractor compliance with any contract term or condition, or requested progress payment amount.

(iii) In the case of a final invoice for any balance of funds due the Contractor for work or services performed, the amount was not subject to further contract settlement actions between the Government and the Contractor.

(4) *Computing penalty amount.* The Government will compute the interest penalty in accordance with the Office of Management and Budget prompt payment regulations at 5 CFR part 1315.

(i) For the sole purpose of computing an interest penalty that might be due the Contractor, Government acceptance or approval is deemed to occur constructively as shown in paragraphs (a)(4)(i)(A) and (B) of this clause. If actual acceptance or approval occurs within the constructive acceptance or approval period, the Government will base the determination of an interest penalty on the actual date of acceptance or approval. Constructive acceptance or constructive approval requirements do not apply if there is a disagreement over quantity, quality, Contractor compliance with a contract provision, or requested progress payment amounts. These requirements also do not compel Government officials to accept work or services, approve Contractor estimates, perform contract administration functions, or make payment prior to fulfilling their responsibilities.

(A) For work or services completed by the Contractor, Government acceptance is deemed to occur constructively on the 7th day after the Contractor completes the work or services in accordance with the terms and conditions of the contract.

(B) For progress payments, Government approval is deemed to occur on the 7th day after the designated billing office receives the Contractor estimates.

(ii) The prompt payment regulations at 5 CFR 1315.10(c) do not require the Government to pay interest penalties if payment delays are due to disagreement between the Government and the Contractor over the payment amount or other issues involving contract compliance, or on amounts temporarily withheld or retained in accordance with the terms of the contract. The Government and the Contractor shall resolve claims involving disputes, and any interest that may be payable in accordance with the clause at FAR 52.233-1, Disputes.

(5) *Discounts for prompt payment.* The designated payment office will pay an interest penalty automatically, without request from the Contractor, if the Government takes a discount for prompt payment improperly. The Government will calculate the interest penalty in accordance with 5 CFR part 1315.

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### *(6) Additional interest penalty.*

(i) The designated payment office will pay a penalty amount, calculated in accordance with the prompt payment regulations at 5 CFR part 1315, in addition to the interest penalty amount only if-

(A) The Government owes an interest penalty of \$1 or more;

(B) The designated payment office does not pay the interest penalty within 10 days after the date the invoice amount is paid; and

(C) The contractor makes a written demand to the designated payment office for additional penalty payment, in accordance with paragraph (a)(6)(ii) of this clause, postmarked not later than 40 days after the date the invoice amount is paid.

(ii)(A) The Contractor shall support written demands for additional penalty payments with the following data. The Government will not request any additional data. The Contractor shall-

(1) Specifically assert that late payment interest is due under a specific invoice, and request payment of all overdue late payment interest penalty and such additional penalty as may be required;

(2) Attach a copy of the invoice on which the unpaid late payment interest is due; and

(3) State that payment of the principal has been received, including the date of receipt.

(B) If there is no postmark or the postmark is illegible-

(1) The designated payment office that receives the demand will annotate it with the date of receipt, provided the demand is received on or before the 40th day after payment was made; or

(2) If the designated payment office fails to make the required annotation, the Government will determine the demand's validity based on the date the Contractor has placed on the demand, provided such date is no later than the 40th day after payment was made.

(iii) The additional penalty does not apply to payments regulated by other Government regulations (e.g., payments under utility contracts subject to tariffs and regulation).

(b) *Contract financing payments.* If this contract provides for contract financing, the Government will make contract financing payments in accordance with the applicable contract financing clause.

(c) *Overpayments.* If the Contractor becomes aware of a duplicate payment or that the Government has otherwise overpaid on an invoice payment, the Contractor shall immediately notify the Contracting Officer and request instructions for disposition of the overpayment.

**(End of clause)**

### **55. 52.232-33 Payment by Electronic Funds Transfer--Central Contractor Registration (Oct. 2003)**

#### *(a) Method of payment.*

(1) All payments by the Government under this contract shall be made by electronic funds transfer (EFT), except as provided in paragraph (a)(2) of this clause. As used in this clause, the term "EFT" refers to the funds transfer and may also include the payment information transfer.

(2) In the event the Government is unable to release one or more payments by EFT, the Contractor agrees to either-

(i) Accept payment by check or some other mutually agreeable method of payment; or

(ii) Request the Government to extend the payment due date until such time as the Government can make payment by EFT (but see paragraph (d) of this clause).

(b) *Contractor's EFT information.* The Government shall make payment to the Contractor using the EFT information contained in the Central Contractor Registration (CCR) database. In the event that the EFT information changes, the Contractor shall be responsible for providing the updated information to the CCR database.

(c) *Mechanisms for EFT payment.* The Government may make payment by EFT through either the Automated Clearing House (ACH) network, subject to the rules of the National Automated Clearing House Association, or the Fedwire Transfer System. The rules governing Federal payments through the ACH are contained in 31 CFR part 210.

(d) *Suspension of payment.* If the Contractor's EFT information in the CCR database is incorrect, then the Government need not make payment to the Contractor under this contract until correct EFT information is entered into the CCR database; and any invoice or contract financing request shall be deemed not to be a proper invoice for the purpose of prompt payment under this contract. The prompt payment terms of the contract regarding notice of an improper invoice and delays in accrual of interest penalties apply.

(e) *Liability for uncompleted or erroneous transfers.*

(1) If an uncompleted or erroneous transfer occurs because the Government used the Contractor's EFT information incorrectly, the Government remains responsible for-

(i) Making a correct payment;

(ii) Paying any prompt payment penalty due; and

(iii) Recovering any erroneously directed funds.

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(2) If an uncompleted or erroneous transfer occurs because the Contractor's EFT information was incorrect, or was revised within 30 days of Government release of the EFT payment transaction instruction to the Federal Reserve System, and-

(i) If the funds are no longer under the control of the payment office, the Government is deemed to have made payment and the Contractor is responsible for recovery of any erroneously directed funds; or

(ii) If the funds remain under the control of the payment office, the Government shall not make payment, and the provisions of paragraph (d) of this clause shall apply.

(f) *EFT and prompt payment.* A payment shall be deemed to have been made in a timely manner in accordance with the prompt payment terms of this contract if, in the EFT payment transaction instruction released to the Federal Reserve System, the date specified for settlement of the payment is on or before the prompt payment due date, provided the specified payment date is a valid date under the rules of the Federal Reserve System.

(g) *EFT and assignment of claims.* If the Contractor assigns the proceeds of this contract as provided for in the assignment of claims terms of this contract, the Contractor shall require as a condition of any such assignment, that the assignee shall register separately in the CCR database and shall be paid by EFT in accordance with the terms of this clause. Notwithstanding any other requirement of this contract, payment to an ultimate recipient other than the Contractor, or a financial institution properly recognized under an assignment of claims pursuant to Subpart 32.8, is not permitted. In all respects, the requirements of this clause shall apply to the assignee as if it were the Contractor. EFT information that shows the ultimate recipient of the transfer to be other than the Contractor, in the absence of a proper assignment of claims acceptable to the Government, is incorrect EFT information within the meaning of paragraph (d) of this clause.

(h) *Liability for change of EFT information by financial agent.* The Government is not liable for errors resulting from changes to EFT information made by the Contractor's financial agent.

(i) *Payment information.* The payment or disbursing office shall forward to the Contractor available payment information that is suitable for transmission as of the date of release of the EFT instruction to the Federal Reserve System. The Government may request the Contractor to designate a desired format and method(s) for delivery of payment information from a list of formats and methods the payment office is capable of executing. However, the Government does not guarantee that any particular format or method of delivery is available at any particular payment office and retains the latitude to use the format and delivery method most convenient to the Government. If the Government makes payment by check in accordance with paragraph (a) of this clause, the Government shall mail the payment information to the remittance address contained in the CCR database.

(End of clause)

### 56. 52.232.34 Payment by Electronic Funds Transfer--Other than Central Contractor Registration (May 1999)

(a) Method of payment. (1) All payments by the Government under this contract shall be made by electronic funds transfer (EFT) except as provided in paragraph (a)(2) of this clause. As used in this clause, the term "EFT" refers to the funds transfer and may also include the payment information transfer.

(2) In the event the Government is unable to release one or more payments by EFT, the Contractor agrees to either--

(i) Accept payment by check or some other mutually agreeable method of payment; or

(ii) Request the Government to extend payment due dates until such time as the Government makes payment by EFT (but see paragraph (d) of this clause).

(b) Mandatory submission of Contractor's EFT information. (1) The Contractor is required to provide the Government with the information required to make payment by EFT (see paragraph (j) of this clause). The Contractor shall provide this information directly to the office designated in this contract to receive that information (hereafter: "designated office") by \_\_\_\_\_ [the Contracting Officer shall insert date, days after award, days before first request, the date specified for receipt of offers if the provision at 52.232-38 is utilized, or "concurrent with first request" as prescribed by the head of the agency; if not prescribed, insert "no later than 15 days prior to submission of the first request for payment"]. If not otherwise specified in this contract, the payment office is the designated office for receipt of the Contractor's EFT information. If more than one designated office is named for the contract, the Contractor shall provide a separate notice to each office. In the event that the EFT information changes, the Contractor shall be responsible for providing the updated information to the designated office(s).

(2) If the Contractor provides EFT information applicable to multiple contracts, the Contractor shall specifically state the applicability of this EFT information in terms acceptable to the designated office. However, EFT information

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supplied to a designated office shall be applicable only to contracts that identify that designated office as the office to receive EFT information for that contract.

(c) Mechanisms for EFT payment. The Government may make payment by EFT through either the Automated Clearing House (ACH) network, subject to the rules of the National Automated Clearing House Association, or the Fedwire Transfer System. The rules governing Federal payments through the ACH are contained in 31 CFR part 210.

(d) Suspension of payment. (1) The Government is not required to make any payment under this contract until after receipt, by the designated office, of the correct EFT payment information from the Contractor. Until receipt of the correct EFT information, any invoice or contract financing request shall be deemed not to be a proper invoice for the purpose of prompt payment under this contract. The prompt payment terms of the contract regarding notice of an improper invoice and delays in accrual of interest penalties apply.

(2) If the EFT information changes after submission of correct EFT information, the Government shall begin using the changed EFT information no later than 30 days after its receipt by the designated office to the extent payment is made by EFT. However, the Contractor may request that no further payments be made until the updated EFT information is implemented by the payment office. If such suspension would result in a late payment under the prompt payment terms of this contract, the Contractor's request for suspension shall extend the due date for payment by the number of days of the suspension.

(e) Liability for uncompleted or erroneous transfers. (1) If an uncompleted or erroneous transfer occurs because the Government used the Contractor's EFT information incorrectly, the Government remains responsible for--

(i) Making a correct payment;

(ii) Paying any prompt payment penalty due; and

(iii) Recovering any erroneously directed funds.

(2) If an uncompleted or erroneous transfer occurs because the Contractor's EFT information was incorrect, or was revised within 30 days of Government release of the EFT payment transaction instruction to the Federal Reserve System, and--

(i) If the funds are no longer under the control of the payment office, the Government is deemed to have made payment and the Contractor is responsible for recovery of any erroneously directed funds; or

(ii) If the funds remain under the control of the payment office, the Government shall not make payment and the provisions of paragraph (d) shall apply.

(f) EFT and prompt payment. A payment shall be deemed to have been made in a timely manner in accordance with the prompt payment terms of this contract if, in the EFT payment transaction instruction released to the Federal Reserve System, the date specified for settlement of the payment is on or before the prompt payment due date, provided the specified payment date is a valid date under the rules of the Federal Reserve System.

(g) EFT and assignment of claims. If the Contractor assigns the proceeds of this contract as provided for in the assignment of claims terms of this contract, the Contractor shall require as a condition of any such assignment, that the assignee shall provide the EFT information required by paragraph (j) of this clause to the designated office, and shall be paid by EFT in accordance with the terms of this clause. In all respects, the requirements of this clause shall apply to the assignee as if it were the Contractor. EFT information that shows the ultimate recipient of the transfer to be other than the Contractor, in the absence of a proper assignment of claims acceptable to the Government, is incorrect EFT information within the meaning of paragraph (d) of this clause.

(h) Liability for change of EFT information by financial agent. The Government is not liable for errors resulting from changes to EFT information provided by the Contractor's financial agent.

(i) Payment information. The payment or disbursing office shall forward to the Contractor available payment information that is suitable for transmission as of the date of release of the EFT instruction to the Federal Reserve System. The Government may request the Contractor to designate a desired format and method(s) for delivery of payment information from a list of formats and methods the payment office is capable of executing. However, the Government does not guarantee that any particular format or method of delivery is available at any particular payment office and retains the latitude to use the format and delivery method most convenient to the Government. If the Government makes payment by check in accordance with paragraph (a) of this clause, the Government shall mail the payment information to the remittance address in the contract.

(j) EFT information. The Contractor shall provide the following information to the designated office. The Contractor may supply this data for this or multiple contracts (see paragraph (b) of this clause). The Contractor shall designate a single financial agent per contract capable of receiving and processing the EFT information using the EFT methods described in paragraph (c) of this clause.

(1) The contract number (or other procurement identification number).

(2) The Contractor's name and remittance address, as stated in the contract(s).

(3) The signature (manual or electronic, as appropriate), title, and telephone number of the Contractor official authorized to provide this information.

(4) The name, address, and 9-digit Routing Transit Number of the Contractor's financial agent.

(5) The Contractor's account number and the type of account (checking, saving, or lockbox).

(6) If applicable, the Fedwire Transfer System telegraphic abbreviation of the Contractor's financial agent.

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(7) If applicable, the Contractor shall also provide the name, address, telegraphic abbreviation, and 9-digit Routing Transit Number of the correspondent financial institution receiving the wire transfer payment if the Contractor's financial agent is not directly on-line to the Fedwire Transfer System; and, therefore, not the receiver of the wire transfer payment.

(End of clause)

### 57. 52.233-1 Disputes (July 2002)

(a) This contract is subject to the Contract Disputes Act of 1978, as amended (41 U.S.C. 601-613).

(b) Except as provided in the Act, all disputes arising under or relating to this contract shall be resolved under this clause.

(c) "Claim," as used in this clause, means a written demand or written assertion by one of the contracting parties seeking, as a matter of right, the payment of money in a sum certain, the adjustment or interpretation of contract terms, or other relief arising under or relating to this contract. However, a written demand or written assertion by the Contractor seeking the payment of money exceeding \$100,000 is not a claim under the Act until certified. A voucher, invoice, or other routine request for payment that is not in dispute when submitted is not a claim under the Act. The submission may be converted to a claim under the Act, by complying with the submission and certification requirements of this clause, if it is disputed either as to liability or amount or is not acted upon in a reasonable time.

(d)(1) A claim by the Contractor shall be made in writing and, unless otherwise stated in this contract, submitted within 6 years after accrual of the claim to the Contracting Officer for a written decision. A claim by the Government against the Contractor shall be subject to a written decision by the Contracting Officer.

(2)(i) The Contractor shall provide the certification specified in paragraph (d)(2)(iii) of this clause when submitting any claim exceeding \$100,000.

(ii) The certification requirement does not apply to issues in controversy that have not been submitted as all or part of a claim.

(iii) The certification shall state as follows: "I certify that the claim is made in good faith; that the supporting data are accurate and complete to the best of my knowledge and belief; that the amount requested accurately reflects the contract adjustment for which the Contractor believes the Government is liable; and that I am duly authorized to certify the claim on behalf of the Contractor."

(3) The certification may be executed by any person duly authorized to bind the Contractor with respect to the claim.

(e) For Contractor claims of \$100,000 or less, the Contracting Officer must, if requested in writing by the Contractor, render a decision within 60 days of the request. For Contractor-certified claims over \$100,000, the Contracting Officer must, within 60 days, decide the claim or notify the Contractor of the date by which the decision will be made.

(f) The Contracting Officer's decision shall be final unless the Contractor appeals or files a suit as provided in the Act.

(g) If the claim by the Contractor is submitted to the Contracting Officer or a claim by the Government is presented to the Contractor, the parties, by mutual consent, may agree to use alternative dispute resolution (ADR). If the Contractor refuses an offer for ADR, the Contractor shall inform the Contracting Officer, in writing, of the Contractor's specific reasons for rejecting the offer.

(h) The Government shall pay interest on the amount found due and unpaid from (1) the date that the Contracting Officer receives the claim (certified, if required); or (2) the date that payment otherwise would be due, if that date is later, until the date of payment. With regard to claims having defective certifications, as defined in FAR 33.201, interest shall be paid from the date that the Contracting Officer initially receives the claim. Simple interest on claims shall be paid at the rate, fixed by the Secretary of the Treasury as provided in the Act, which is applicable to the period during which the Contracting Officer receives the claim and then at the rate applicable for each 6-month period as fixed by the Treasury Secretary during the pendency of the claim.

(i) The Contractor shall proceed diligently with performance of this contract, pending final resolution of any request for relief, claim, appeal, or action arising under the contract, and comply with any decision of the Contracting Officer.

(End of clause)

*Alternate I (Dec 1991).* As prescribed in 33.215, substitute the following paragraph (i) for paragraph (i) of the basic clause:

(i) The Contractor shall proceed diligently with performance of this contract, pending final resolution of any request for relief, claim, appeal, or action arising under or relating to the contract, and comply with any decision of the Contracting Officer.

### 58. 52.233-2 Service of Protest (Aug 1996)

(a) Protests, as defined in section 33.101 of the Federal Acquisition Regulation, that are filed directly with an agency, and copies of any protests that are filed with the General Accounting Office (GAO), shall be served on the Contracting Officer (addressed as follows) by obtaining written and dated acknowledgment of receipt from General Services Administration, Acquisition Services Branch; 26 Federal Plaza, Room 1639, New York, NY 10278.

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(b) The copy of any protest shall be received in the office designated above within one day of filing a protest with the GAO.

(End of provision)

### 59. 52.233-3 Protest after Award (Aug 1996)

(a) Upon receipt of a notice of protest (as defined in FAR 33.101) or a determination that a protest is likely (see FAR 33.102(d)), the Contracting Officer may, by written order to the Contractor, direct the Contractor to stop performance of the work called for by this contract. The order shall be specifically identified as a stop-work order issued under this clause. Upon receipt of the order, the Contractor shall immediately comply with its terms and take all reasonable steps to minimize the incurrence of costs allocable to the work covered by the order during the period of work stoppage. Upon receipt of the final decision in the protest, the Contracting Officer shall either--

(1) Cancel the stop-work order; or

(2) Terminate the work covered by the order as provided in the Default, or the Termination for Convenience of the Government, clause of this contract.

(b) If a stop-work order issued under this clause is canceled either before or after a final decision in the protest, the Contractor shall resume work. The Contracting Officer shall make an equitable adjustment in the delivery schedule or contract price, or both, and the contract shall be modified, in writing, accordingly, if--

(1) The stop-work order results in an increase in the time required for, or in the Contractor's cost properly allocable to, the performance of any part of this contract; and

(2) The Contractor asserts its right to an adjustment within 30 days after the end of the period of work stoppage; provided, that if the Contracting Officer decides the facts justify the action, the Contracting Officer may receive and act upon a proposal at any time before final payment under this contract.

(c) If a stop-work order is not canceled and the work covered by the order is terminated for the convenience of the Government, the Contracting Officer shall allow reasonable costs resulting from the stop-work order in arriving at the termination settlement.

(d) If a stop-work order is not canceled and the work covered by the order is terminated for default, the Contracting Officer shall allow, by equitable adjustment or otherwise, reasonable costs resulting from the stop-work order.

(e) The Government's rights to terminate this contract at any time are not affected by action taken under this clause.

(f) If, as the result of the Contractor's intentional or negligent misstatement, misrepresentation, or miscertification, a protest related to this contract is sustained, and the Government pays costs, as provided in FAR 33.102(b)(2) or 33.104(h)(1), the Government may require the Contractor to reimburse the Government the amount of such costs. In addition to any other remedy available, and pursuant to the requirements of Subpart 32.6, the Government may collect this debt by offsetting the amount against any payment due the Contractor under any contract between the Contractor and the Government.

(End of clause)

### 60. 52.237-1 Site Visit. (Apr 1984)

Offerors or quoters are urged and expected to inspect the site where services are to be performed and to satisfy themselves regarding all general and local conditions that may affect the cost of contract performance, to the extent that the information is reasonably obtainable. In no event shall failure to inspect the site constitute grounds for a claim after contract award.

(End of provision)

### 61. 52.237-2 Protection of Government Buildings, Equipment, and Vegetation (Apr 1984)

The Contractor shall use reasonable care to avoid damaging existing buildings, equipment, and vegetation on the Government installation. If the Contractor's failure to use reasonable care causes damage to any of this property, the Contractor shall replace or repair the damage at no expense to the Government as the Contracting Officer directs. If the Contractor fails or refuses to make such repair or replacement, the Contractor shall be liable for the cost, which may be deducted from the contract price.

(End of clause)

### 62. 52.242-14 Suspension of Work (Apr 1984)



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(a) The Contracting Officer may order the Contractor, in writing, to suspend, delay, or interrupt all or any part of the work of this contract for the period of time that the Contracting Officer determines appropriate for the convenience of the Government.

(b) If the performance of all or any part of the work is, for an unreasonable period of time, suspended, delayed, or interrupted (1) by an act of the Contracting Officer in the administration of this contract, or (2) by the Contracting Officer's failure to act within the time specified in this contract (or within a reasonable time if not specified), an adjustment shall be made for any increase in the cost of performance of this contract (excluding profit) necessarily caused by the unreasonable suspension, delay, or interruption, and the contract modified in writing accordingly. However, no adjustment shall be made under this clause for any suspension, delay, or interruption to the extent that performance would have been so suspended, delayed, or interrupted by any other cause, including the fault or negligence of the Contractor, or for which an equitable adjustment is provided for or excluded under any other term or condition of this contract.

(c) A claim under this clause shall not be allowed--

(1) For any costs incurred more than 20 days before the Contractor shall have notified the Contracting Officer in writing of the act or failure to act involved (but this requirement shall not apply as to a claim resulting from a suspension order); and

(2) Unless the claim, in an amount stated, is asserted in writing as soon as practicable after the termination of the suspension, delay, or interruption, but not later than the date of final payment under the contract.

(End of clause)

### 63. 52.243-1 Changes--Fixed Price (Aug 1987)

(a) The Contracting Officer may at any time, by written order, and without notice to the sureties, if any, make changes within the general scope of this contract in any one or more of the following:

(1) Drawings, designs, or specifications when the supplies to be furnished are to be specially manufactured for the Government in accordance with the drawings, designs, or specifications.

(2) Method of shipment or packing.

(3) Place of delivery.

(b) If any such change causes an increase or decrease in the cost of, or the time required for, performance of any part of the work under this contract, whether or not changed by the order, the Contracting Officer shall make an equitable adjustment in the contract price, the delivery schedule, or both, and shall modify the contract.

(c) The Contractor must assert its right to an adjustment under this clause within 30 days from the date of receipt of the written order. However, if the Contracting Officer decides that the facts justify it, the Contracting Officer may receive and act upon a proposal submitted before final payment of the contract.

(d) If the Contractor's proposal includes the cost of property made obsolete or excess by the change, the Contracting Officer shall have the right to prescribe the manner of the disposition of the property.

(e) Failure to agree to any adjustment shall be a dispute under the Disputes clause. However, nothing in this clause shall excuse the Contractor from proceeding with the contract as changed.

(End of clause)

### 64. 52.244-4 Subcontractors and Outside Associates and Consultants (Architect-Engineer Services) (Aug 1998)

Any subcontractors and outside associates or consultants required by the Contractor in connection with the services covered by the contract will be limited to individuals or firms that were specifically identified and agreed to during negotiations. The Contractor shall obtain the Contracting Officer's written consent before making any substitution for these subcontractors, associates, or consultants.

(End of clause)

### 65. 52.246-4 Inspection of Services--Fixed-Price (Aug 1996)

(a) Definition: "Services," as used in this clause, includes services performed, workmanship, and material furnished or utilized in the performance of services.

(b) The Contractor shall provide and maintain an inspection system acceptable to the Government covering the services under this contract. Complete records of all inspection work performed by the Contractor shall be maintained and made available to the Government during contract performance and for as long afterwards as the contract requires.

(c) The Government has the right to inspect and test all services called for by the contract, to the extent practicable at all times and places during the term of the contract. The Government shall perform inspections and tests in a manner that will not unduly delay the work.

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(d) If the Government performs inspections or tests on the premises of the Contractor or a subcontractor, the Contractor shall furnish, and shall require subcontractors to furnish, at no increase in contract price, all reasonable facilities and assistance for the safe and convenient performance of these duties.

(e) If any of the services do not conform with contract requirements, the Government may require the Contractor to perform the services again in conformity with contract requirements, at no increase in contract amount. When the defects in services cannot be corrected by reperformance, the Government may--

(1) Require the Contractor to take necessary action to ensure that future performance conforms to contract requirements; and

(2) Reduce the contract price to reflect the reduced value of the services performed.

(f) If the Contractor fails to promptly perform the services again or to take the necessary action to ensure future performance in conformity with contract requirements, the Government may--

(1) By contract or otherwise, perform the services and charge to the Contractor any cost incurred by the Government that is directly related to the performance of such service; or

(2) Terminate the contract for default.

(End of clause)

### 66 52.246-25 Limitation of Liability--Services (Feb 1997)

(a) Except as provided in paragraphs (b) and (c) below, and except to the extent that the Contractor is expressly responsible under this contract for deficiencies in the services required to be performed under it (including any materials furnished in conjunction with those services), the

Contractor shall not be liable for loss of or damage to property of the Government that--

(1) Occurs after Government acceptance of services performed under this contract; and

(2) Results from any defects or deficiencies in the services performed or materials furnished.

(b) The limitation of liability under paragraph (a) above shall not apply when a defect or deficiency in, or the Government's acceptance of, services performed or materials furnished results from willful misconduct or lack of good faith on the part of any of the Contractor's managerial personnel. The term "Contractor's managerial personnel," as used in this clause, means the Contractor's directors, officers, and any of the Contractor's managers, superintendents, or equivalent representatives who have supervision or direction of--

(1) All or substantially all of the Contractor's business;

(2) All or substantially all of the Contractor's operations at any one plant, laboratory, or separate location at which the contract is being performed; or

(3) A separate and complete major industrial operation connected with the performance of this contract.

(c) If the Contractor carries insurance, or has established a reserve for self-insurance, covering liability for loss or damage suffered by the Government through the Contractor's performance of services or furnishing of materials under this contract, the Contractor shall be liable to the Government, to the extent of such insurance or reserve, for loss of or damage to property of the Government occurring after Government acceptance of, and resulting from any defects and deficiencies in, services performed or materials furnished under this contract.

(End of clause)

### 67 52.249-4 Termination for Convenience of the Government (Services) (Short Form) (Apr 1984)

The Contracting Officer, by written notice, may terminate this contract, in whole or in part, when it is in the Government's interest. If this contract is terminated, the Government shall be liable only for payment under the payment provisions of this contract for services rendered before the effective date of termination.

(End of clause)

### 68. 52.249-8 Default (Fixed-Price Supply and Service) (Apr 1984)

(a)(1) The Government may, subject to paragraphs (c) and (d) of this clause, by written notice of default to the Contractor, terminate this contract in whole or in part if the Contractor fails to--

(i) Deliver the supplies or to perform the services within the time specified in this contract or any extension;

(ii) Make progress, so as to endanger performance of this contract (but see subparagraph (a)(2) of this clause); or

(iii) Perform any of the other provisions of this contract (but see subparagraph (a)(2) of this clause).

(2) The Government's right to terminate this contract under subdivisions (a)(1)(ii) and (1)(iii) of this clause, may be exercised if the Contractor does not cure such failure within 10 days (or more if authorized in writing by the Contracting Officer) after receipt of the notice from the Contracting Officer specifying the failure.

(b) If the Government terminates this contract in whole or in part, it may acquire, under the terms and in the manner the Contracting Officer considers appropriate, supplies or services similar to those terminated, and the Contractor will be

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liable to the Government for any excess costs for those supplies or services. However, the Contractor shall continue the work not terminated.

(c) Except for defaults of subcontractors at any tier, the Contractor shall not be liable for any excess costs if the failure to perform the contract arises from causes beyond the control and without the fault or negligence of the Contractor. Examples of such causes include (1) acts of God or of the public enemy, (2) acts of the Government in either its sovereign or contractual capacity, (3) fires, (4) floods, (5) epidemics, (6) quarantine restrictions, (7) strikes, (8) freight embargoes, and (9) unusually severe weather. In each instance the failure to perform must be beyond the control and without the fault or negligence of the Contractor.

(d) If the failure to perform is caused by the default of a subcontractor at any tier, and if the cause of the default is beyond the control of both the Contractor and subcontractor, and without the fault or negligence of either, the Contractor shall not be liable for any excess costs for failure to perform, unless the subcontracted supplies or services were obtainable from other sources in

sufficient time for the Contractor to meet the required delivery schedule.

(e) If this contract is terminated for default, the Government may require the Contractor to transfer title and deliver to the Government, as directed by the Contracting Officer, any (1) completed supplies, and (2) partially completed supplies and materials, parts, tools, dies, jigs, fixtures, plans, drawings, information, and contract rights (collectively referred to as "manufacturing materials" in this clause) that the Contractor has specifically produced or acquired for the terminated portion of this contract. Upon direction of the Contracting Officer, the Contractor shall also protect and preserve property in its possession in which the Government has an interest.

(f) The Government shall pay contract price for completed supplies delivered and accepted. The Contractor and Contracting Officer shall agree on the amount of payment for manufacturing materials delivered and accepted and for the protection and preservation of the property. Failure to agree will be a dispute under the Disputes clause. The Government may withhold from these amounts any sum the Contracting Officer determines to be necessary to protect the Government against loss because of outstanding liens or claims of former lien holders.

(g) If, after termination, it is determined that the Contractor was not in default, or that the default was excusable, the rights and obligations of the parties shall be the same as if the termination had been issued for the convenience of the Government.

(h) The rights and remedies of the Government in this clause are in addition to any other rights and remedies provided by law or under this contract.

(End of clause)

### 69. 52.252-2 Clauses Incorporated By Reference (Feb 1998)

This contract incorporates one or more clauses by reference, with the same force and effect as if they were given in full text. Upon request, the Contracting Officer will make their full text available. Also, the full text of a clause may be accessed electronically at this/these address(es):

(End of clause)

### 70. 52.252-6 Authorized Deviations in Clauses (Apr 1984)

(a) The use in this solicitation or contract of any Federal Acquisition Regulation (48 CFR Chapter 1) clause with an authorized deviation is indicated by the addition of "(DEVIATION)" after the date of the clause.

(b) The use in this solicitation or contract of any \_\_\_\_\_. [insert regulation name] (48 CFR \_\_\_\_\_) clause with an authorized deviation is indicated by the addition of "(DEVIATION)" after the name of the regulation.

(End of clause)

### 71. 52.253-1 Computer Generated Forms (Jan 1991)

(a) Any data required to be submitted on a Standard or Optional Form prescribed by the Federal Acquisition Regulation (FAR) may be submitted on a computer generated version of the form, provided there is no change to the name, content, or sequence of the data elements on the form, and provided the form carries the Standard or Optional Form number and edition date.

(b) Unless prohibited by agency regulations, any data required to be submitted on an agency unique form prescribed by an agency supplement to the FAR may be submitted on a computer generated version of the form provided there is no change to the name, content, or sequence of the data elements on the form and provided the form carries the agency form number and edition date.

(c) If the Contractor submits a computer generated version of a form that is different than the required form, then the rights and obligations of the parties will be determined based on the content of the required form.

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(End of clause)

### 72. 552.203-71 RESTRICTION ON ADVERTISING (SEP 1999)

The Contractor shall not refer to this contract in commercial advertising or similar promotions in such a manner as to state or imply that the product or service provided is endorsed or preferred by the White House, the Executive Office of the President, or any other element of the Federal Government, or is considered by these entities to be superior to other products or services. Any advertisement by the Contractor, including price-off coupons, that refers to a military resale activity shall contain the following statement: "This advertisement is neither paid for nor sponsored, in whole or in part, by any element of the United States Government."

(End of clause)

### 73. 552.215-70 EXAMINATION OF RECORDS BY GSA (FEB 1996)

The Contractor agrees that the Administrator of General Services or any duly authorized representatives shall, until the expiration of 3 years after final payment under this contract, or of the time periods for the particular records specified in Subpart 4.7 of the Federal Acquisition Regulation (48 CFR 4.7), whichever expires earlier, have access to and the right to examine any books, documents, papers, and records of the Contractor involving transactions related to this contract or compliance with any clauses thereunder. The Contractor further agrees to include in all its subcontracts hereunder a provision to the effect that the subcontractor agrees that the Administrator of General Services or any authorized representatives shall, until the expiration of 3 years after final payment under the subcontract, or of the time periods for the particular records specified in Subpart 4.7 of the Federal Acquisition Regulation (48 CFR 4.7), whichever expires earlier, have access to and the right to examine any books, documents, papers, and records of such subcontractor involving transactions related to the subcontract or compliance with any clauses thereunder. The term "subcontract" as used in this clause excludes (a) purchase orders not exceeding \$100,000 and (b) subcontracts or purchase orders for public utility services at rates established for uniform applicability to the general public.

(End of clause)

### 74. 552.217-71 NOTICE REGARDING OPTION(S) (NOV 1992)

The General Services Administration (GSA) has included an option to [*Insert "purchase additional quantities of supplies or services" or "extend the term of this contract" or "purchase additional quantities of supplies or services and to extend the term of this contract"*] in order to demonstrate the value it places on quality performance by providing a mechanism for continuing a contractual relationship with a successful Offeror that performs at a level which meets or exceeds GSA's quality performance expectations as communicated to the Contractor, in writing, by the Contracting Officer or designated representative. When deciding whether to exercise the option, the Contracting Officer will consider the quality of the Contractor's past performance under this contract in accordance with 48 CFR 517.207.

(End of provision)

### 75. 552.219-71 NOTICE TO OFFERORS OF SUBCONTRACTING PLAN REQUIREMENTS (SEP 1999)

The General Services Administration (GSA) is committed to assuring that maximum practicable opportunity is provided to small, HUBZone small, small disadvantaged, and women-owned small business concerns to participate in the performance of this contract consistent with its efficient performance. GSA expects any subcontracting plan submitted pursuant to FAR 52.219-9, Small Business Subcontracting Plan, to reflect this commitment. Consequently, an

offeror, other than a small business concern, before being awarded a contract exceeding \$500,000 (\$1,000,000 for construction), must demonstrate that its subcontracting plan represents a creative and innovative program for involving small, HUBZone small, small disadvantaged, and women-owned small business concerns as subcontractors in the performance of this contract.

(End of provision)

### 76. 552.219-72 PREPARATION, SUBMISSION, AND NEGOTIATION OF SUBCONTRACTING PLANS (SEP 1999)

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- (a) An offeror, other than a small business concern, submitting an offer that exceeds \$500,000 (\$1,000,000 for construction) shall submit a subcontracting plan with its initial offer. The subcontracting plan will be negotiated concurrently with price and any required technical and management proposals, unless the offeror submits a previously-approved commercial products plan.
- (b) Maximum practicable utilization of small, HUBZone small, small disadvantaged, and women-owned small business concerns as subcontractors is a matter of national interest with both social and economic benefits. The General Services Administration (GSA) expects that an offeror's subcontracting plan will reflect a commitment to assuring that small, HUBZone small, small disadvantaged, and women-owned small business concerns are provided the maximum practicable opportunity, consistent with efficient contract performance, to participate as subcontractors in the performance of the resulting contract. An offeror submitting a commercial products plan can reflect this commitment through subcontracting opportunities it provides that relate to the offeror's production generally; i.e., for both its commercial and Government business.
- (c) GSA believes that this potential contract provides significant opportunities for the use of small, HUBZone small, small disadvantaged, and women-owned small business concerns as subcontractors. Consequently, in addressing the eleven elements described at FAR 52.219-9(d) of the clause in this contract entitled Small Business Subcontracting Plan, the offeror shall:
  - (1) Demonstrate that its subcontracting plan represents a creative and innovative program for involving small, HUBZone small, small disadvantaged, and women-owned small business concerns in performing the contract.
  - (2) Include a description of the offeror's subcontracting strategies used in any previous contracts, significant achievements, and how this plan will build upon those earlier achievements.
  - (3) Demonstrate through its plan that it understands the small business subcontracting program's objectives and GSA's expectations, and it is committed to taking those actions necessary to meet these goals or objectives.
- (d) In determining the acceptability of any subcontracting plan, the Contracting Officer will take each of the following actions:
  - (1) Review the plan to verify that the offeror demonstrates an understanding of the small business subcontracting program's objectives and GSA's expectations with respect to the program and has included all the information, goals, and assurances required by FAR 52.219-9.
  - (2) Consider previous goals and achievements of contractors in the same industry.
  - (3) Consider information and potential sources obtained from agencies administering national and local preference programs and other advocacy groups in evaluating whether the goals stated in the plan adequately reflect the anticipated potential for subcontracting to small, HUBZone small, small disadvantaged, and women-owned small business concerns.
  - (4) Review the offeror's description of its strategies, historical performance and significant achievements in placing subcontracts for the same or similar products or services with small, HUBZone small, small disadvantaged, and women-owned small business concerns. The offeror's description can apply to commercial as well as previous Government contracts.
- (e) Failure to submit an acceptable subcontracting plan and/or correct deficiencies in a plan within the time specified by the Contracting Officer shall make the offeror ineligible for award.

(End of provision)

### 77. 552.219-73 GOALS FOR SUBCONTRACTING PLAN (SEP 1999)

- (a) Maximum practicable utilization of small, HUBZone small, small disadvantaged, and women-owned small business concerns as subcontractors is a matter of national interest with both social and economic benefits.

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(1) The General Services Administration's (GSA's) commitment to ensuring that maximum practicable opportunity is provided to small, HUBZone small, small disadvantaged, and women-owned small business concerns to participate as subcontractors in the performance of this contract, consistent with its efficient performance, must be reflected in the offeror's subcontracting plan submitted pursuant to the clause of this contract at FAR 52.219-9, Small Business Subcontracting Plan.

(2) In addressing the eleven elements described at FAR 52.219-9(d), the offeror shall demonstrate that its subcontracting plan represents a creative and innovative program for involving small, HUBZone small, small disadvantaged, and women-owned small

business concerns in performing this contract. An offeror submitting a commercial products plan can demonstrate its commitment in providing maximum practicable opportunities through subcontracting opportunities it provides to small, HUBZone small, small disadvantaged, and women-owned small business concerns that relate to the offeror's production generally; i.e., for both its commercial and Government business.

(3) The subcontracting plan shall include a description of the offeror's subcontracting strategies used in previous contracts and significant achievements, with an explanation of how this plan will build upon those earlier achievements. Additionally, the offeror shall demonstrate through its plan that it understands the small business subcontracting program's objectives, GSA's expectations, and is committed to taking those actions necessary to meet these goals or objectives.

- (b) GSA believes that this contract provides significant opportunities for the use of small, HUBZone small, small disadvantaged, and women-owned small business concerns as subcontractors. Accordingly, it is anticipated that an acceptable subcontracting plan will contain at least the following goals:

Small Business	_____percent
HUBZone Small Business	_____percent
Small Disadvantaged Business	_____percent
Women-Owned Small Business	_____percent

NOTE: Target goals are expressed as a percentage of planned subcontracting dollars.

- (b) In determining the acceptability of any subcontracting plan, the Contracting Officer will --

(1) Review the plan to verify that the offeror has demonstrated an understanding of the small business subcontracting program's objectives and GSA's expectations with respect to the programs and has included all the information, goals, and assurances required by FAR 52.219-9;

(2) Consider previous goals and achievements of contractors in the same industry;

(3) Consider information and potential sources obtained from agencies administering national and local preference programs and other advocacy groups in evaluating whether the goals stated in the plan adequately reflect the anticipated potential for subcontracting to small, HUBZone small, small disadvantaged, and women-owned small business concerns; and

(4) Review the offeror's description of its strategies, historical performance and significant achievements in placing subcontracts for the same or similar products or services with small, HUBZone small, small disadvantaged, and women-owned small business

concerns. The offeror's description can apply to commercial as well as previous Government contracts.

- (c) Failure to submit an acceptable subcontracting plan and/or correct deficiencies in a plan within the time specified by the Contracting Officer shall make the offeror ineligible for award.

(End of provision)

Alternate I (SEP 1999). As prescribed in 519.708(c)(2), delete paragraph (b) of the basic provision and redesignate paragraphs (c) and (d) as paragraphs (b) and (c).

## Service Contract Clauses

### 78 552.227-70 GOVERNMENT RIGHTS (UNLIMITED) (MAY 1989)

The Government shall have unlimited rights in all drawings, designs, specifications, notes and other works developed in the performance of this contract, including the right to use same on any other Government design or construction without additional compensation to the Contractor. The Contractor hereby grants to the Government a paid-up license throughout the world to all such works to which he may assert or establish any claim under design patent or copyright laws. The Contractor for a period of three years after completion of the project agrees to furnish the original or copies of all such works on the request of the Contracting Officer.

(End of clause)

### 79. 552.228-70 Workers' Compensation Laws (SEP 1999)

The Act of June 25, 1936, 49 Stat. 1938 (40 U.S.C. 290) authorizes the constituted authority of the several States to apply their workers' compensation laws to all lands and premises owned or held by the United States.

(End of clause)

### 80. 552.229-70 FEDERAL, STATE, AND LOCAL TAXES (APR 1984)

The contract price includes all applicable Federal, State, and local taxes. No adjustment will be made to cover taxes which may subsequently be imposed on this transaction or changes in the rates of currently applicable taxes. However, the Government will, upon the request of the Contractor, furnish evidence appropriate to establish exemption from any tax from which the Government is exempt and which was not included in the contract price.

(End of clause)

### 81. 552.232-70 INVOICE REQUIREMENTS (SEP 1999)

- (a) Invoices shall be submitted in an original only, unless otherwise specified, to the designated billing office specified in this contract or order.
- (b) Invoices must include the Accounting Control Transaction (ACT) number provided below or on the order.

ACT Number (*Contracting Officer insert number*)

- (c) In addition to the requirements for a proper invoice specified in the Prompt Payment clause of this contract or order, the following information or documentation must be submitted with each invoice:

(*Contracting Officer list additional requirements.*)

(End of clause)

### 82. 552.232-73 AVAILABILITY OF FUNDS (SEP 1999)

The authorization of performance of work under this contract during the initial contract period and any option or extension period(s) is contingent upon the appropriation of funds to procure this service. If the contract is awarded, extended, or option(s) exercised, the Government's obligation beyond the end of the fiscal year (September 30), in which the award or extension is made or option(s) exercised, is contingent upon the availability of funds from which payment for the contract services can be made. No legal liability on the part of the Government for payment of any money beyond the end of each fiscal year (September 30) shall arise unless or until funds are made available to the Contracting Officer for this procurement and written notice of such availability is given to the Contractor.

(End of clause)

### 83. 552.232-74 INVOICE PAYMENTS (SEP 1999)

## Service Contract Clauses

- (a) The due date for making invoice payments by the designated payment office is:
- (1) For orders placed electronically by the General Services Administration (GSA) Federal Supply Service (FSS), and to be paid by GSA through electronic funds transfer (EFT), the later of the following two events: (i) The 10th day after the designated billing office receives a proper invoice from the Contractor. If the designated billing office fails to annotate the invoice with the date of receipt at the time of receipt, the invoice payment due date shall be the 10th day after the date of the Contractor's invoice; provided the Contractor submitted a proper invoice and no disagreement exists over quantity, quality, or Contractor compliance with contract requirements.
  - (ii) The 10th day after Government acceptance of supplies delivered or services performed by the Contractor.
- (2) For all other orders, the later of the following two events:
- (i) The 30th day after the designated billing office receives a proper invoice from the Contractor. If the designated billing office fails to annotate the invoice with the date of receipt at the time of receipt, the invoice payment due date shall be the 30th day after the date of the Contractor's invoice; provided the Contractor submitted a proper invoice and no disagreement exists over quantity, quality, or Contractor compliance with contract requirements.
  - (ii) The 30th day after Government acceptance of supplies delivered or services performed by the Contractor.
- (3) On a final invoice, if the payment amount is subject to contract settlement actions, acceptance occurs on the effective date of the contract settlement.
- (b) The General Services Administration will issue payment on the due date in (a)(1) above if the Contractor complies with full cycle electronic commerce. Full cycle electronic commerce includes all the following elements:
- (1) The Contractor must receive and fulfill electronic data interchange (EDI) purchase orders (transaction set 850).
  - (2) The Contractor must generate and submit to the Government valid EDI invoices (transaction set 810) or submit invoices through the GSA Finance Center Internet-based invoice process. Internet-based invoices must be submitted using procedures provided by GSA.
  - (3) The Contractor's financial institution must receive and process, on behalf of the Contractor, EFT payments through the Automated Clearing House (ACH) system.
  - (4) The EDI transaction sets in (b)(1) through (b)(3) above must adhere to implementation conventions provided by GSA.
- (c) If any of the conditions in (b) above do not occur, the 10 day payment due dates in (a)(1) become 30 day payment due dates.
- (d) Notwithstanding paragraph (g) of the clause at FAR 52.212-4, Contract Terms and Conditions--Commercial Items, if the Contractor submits hard-copy invoices, submit only an original invoice. No copies of the invoice are required.
- (e) All other provisions of the Prompt Payment Act (31 U.S.C. 3901 et seq.) and Office of Management and Budget (OMB) Circular A- 125, Prompt Payment, apply.

(End of clause)

### 84. 552.232-76 ELECTRONIC FUNDS TRANSFER PAYMENT (MAR 2000)

- (a) The Government will make payments under this lease by electronic funds transfer (EFT). The Lessor must, no later than 30 days before the first payment:
- (1) Designate a financial institution for receipt of EFT payments.
  - (2) Submit this designation to the Contracting Officer or other Government official, as directed.
- (b) The Lessor must provide the following information:



## Service Contract Clauses

(1) The American Bankers Association 9-digit identifying number for Automated Clearing House (ACH) transfers of the financing institution receiving payment if the institution has access to the Federal Reserve Communications System. (2) Number of account to which funds are to be deposited.

(3) Type of depositor account ("C" for checking, "S" for savings).

(4) If the Lessor is a new enrollee to the EFT system, the Lessor must complete and submit a "Payment Information Form," SF 3881, before payment can be processed.

(c) If the Lessor, during the performance of this contract, elects to designate a different financial institution for the receipt of any payment, the appropriate Government official must receive notice of such change and the required information specified above no later than 30 days before the date such change is to become effective.

(d) The documents furnishing the information required in this clause must be dated and contain the:

(1) Signature, title, and telephone number of the Lessor or the Lessor's authorized representative.

(2) Lessor's name.

(3) Lease number.

(e) Lessor's failure to properly designate a financial institution or to provide appropriate payee bank account information may delay payments of amounts otherwise properly due.

(End of clause)

### 85. 552.232-78 PAYMENT INFORMATION (JUL 2000)

The General Services Administration (GSA) makes information on contract payments available electronically at <http://www.finance.gsa.gov>. The Contractor may register at the site and review its record of payments. This site provides information only on payments made by GSA, not by other agencies.

(End of clause)

### 86. 552.233-70 PROTESTS FILED DIRECTLY WITH THE GENERAL SERVICES ADMINISTRATION (MAR 2000)

(a) The following definitions apply in this provision:

"Agency Protest Official for GSA" means the official in the Office of Acquisition Policy designated to review and decide procurement protests filed with GSA.

"Deciding official" means the person chosen by the protester to decide the agency protest. The deciding official may be either the Contracting Officer or the Agency Protest Official.

(b) The filing time frames in FAR 33.103(e) apply. An agency protest is filed when the protest complaint is received at the location the solicitation designates for serving protests. GSA's hours of operation are 8:00 a.m. to 4:30 p.m. Protests delivered after 4:30 p.m. will be considered received and filed the following business day.

(c) A protest filed directly with the General Services Administration (GSA) must:

(1) Indicate that it is a protest to the agency.

(2) Be filed with the Contracting Officer.

(3) State whether the protester chooses to have the Contracting Officer or the Agency Protest Official for GSA decide the protest. If the protest is silent on this matter, the Contracting Officer will decide the protest.

## Service Contract Clauses

- (4) Indicate whether the protester prefers to make an oral presentation, a written presentation, or an oral presentation confirmed in writing, of arguments in support of the protest to the deciding official.
- (5) Include the information required by FAR 33.103(d)(2):
  - (i) Name, address, fax number, and telephone number of the protester.
  - (ii) Solicitation or contract number.
  - (iii) Detailed statement of the legal and factual grounds for the protest, to include a description of resulting prejudice to the protester.
  - (iv) Copies of relevant documents.
  - (v) Request for a ruling by the agency.
  - (vi) Statement as to the form of relief requested.
  - (vii) All information establishing that the protester is an interested party for the purpose of filing a protest.
  - (viii) All information establishing the timeliness of the protest (see paragraph (b) of this provision).
- (d) An interested party filing a protest with GSA has the choice of requesting either that the Contracting Officer or the Agency Protest Official for GSA decide the protest.
- (e) The decision by the Agency Protest Official for GSA is an alternative to a decision by the Contracting Officer. The Agency Protest Official for GSA will not consider appeals from the Contracting Officer's decision on an agency protest.
- (f) The deciding official must conduct a scheduling conference with the protester within three (3) days after the protest is filed. The scheduling conference will establish deadlines for oral or written arguments in support of the agency protest and for agency officials to present information in response to the protest issues. The deciding official may hear oral arguments in support of the agency protest at the same time as the scheduling conference, depending on availability of the necessary parties.
- (g) Oral conferences may take place either by telephone or in person. Other parties (e.g., representatives of the program office) may attend at the discretion of the deciding official.
- (h) The following procedures apply to information submitted in support of or in response to an agency protest:
  - (1) The protester and the agency have only one opportunity to support or explain the substance of the protest (either orally, in writing, or orally confirmed in writing).
  - (2) GSA procedures do not provide for any discovery.
  - (3) The deciding official has discretion to request additional information from either the agency or the protester. However, the deciding official will normally decide protests on the basis of information provided by the protester and the agency.
  - (4) Except as provided in paragraph (5)(ii) below, the parties are encouraged, but not required, to exchange information submitted to the Agency Protest Official for GSA.
  - (5) If the agency makes a written response to the protest, the following filing requirements apply:
    - (i) The agency must file its response to the protest with the deciding official within five (5) days after the filing of the protest.

## Service Contract Clauses

(ii) The agency must also provide the protester with a copy of the response on the same day it files the response with the deciding official. If the agency believes it needs to redact or withhold any information in the response from the protester, it must obtain the approval of the deciding official.

- (i) The deciding official will resolve the protest through informal presentations or meetings to the maximum extent practicable.
- (j) An interested party may represent itself or be represented by legal counsel. GSA will not reimburse the party for any legal fees related to the agency protest.
- (k) GSA will stay award or suspend contract performance in accordance with FAR 33.103(f). The stay or suspension, unless over-ridden, remains in effect until the protest is decided, dismissed, or withdrawn.
- (l) The deciding official will make a best effort to issue a decision on the protest within twenty-eight (28) days after the filing date. The decision may be oral or written. If the decision is communicated orally to the protester, the deciding official will confirm in writing within three (3) days after the decision.
- (m) GSA may dismiss or stay proceedings on an agency protest if a protest on the same or similar basis is filed with a protest forum outside of GSA.

(End of provision)

### 87. 552.236-70 DEFINITIONS (APR 1984)

The terms "Administration" and "Service" as used in this contract shall mean the General Services Administration (GSA) and the Public Buildings Service (PBS), respectively.

(End of clause)

### 88. 552.243-70 PRICING OF ADJUSTMENTS (APR 1989)

When costs are a factor in any determination of a contract price adjustment, such costs shall be in accordance with the contract cost principles and procedures in Part 31 of the Federal Acquisition Regulation (48 CFR Part 31) in effect on the date of this contract.

(End of clause)

### 89. 552.252-6 AUTHORIZED DEVIATIONS IN CLAUSES (DEVIATION FAR 52.252-6) (SEP 1999)

#### (a) Deviations to FAR clauses.

(1) This solicitation or contract indicates any authorized deviation to a Federal Acquisition Regulation (48 CFR Chapter 1) clause by the addition of "(DEVIATION)" after the date of the clause, if the clause is not published in the General Services Administration Acquisition Regulation (48 CFR Chapter 5).

(2) This solicitation indicates any authorized deviation to a Federal Acquisition Regulation (FAR) clause that is published in the General Services Administration Acquisition Regulation by the addition of "(DEVIATION (FAR clause no.))" after the date of the clause.

(b) Deviations to GSAR clauses. This solicitation indicates any authorized deviation to a General Services Administration Acquisition Regulation clause by the addition of "(DEVIATION)" after the date of the clause.

(c) "Substantially the same as" clauses. Changes in wording of clauses prescribed for use on a "substantially the same as" basis are not considered deviations.

(End of clause)

### 90. PAPERWORK REDUCTION ACT:

## Service Contract Clauses

The information collection requirements contained in this solicitation/contract, that are not required by regulation, have been approved by the Office of Management and Budget pursuant to the Paperwork Reduction and assigned OMB Control No. 30900163.

### 91. EVALUATION OF CONTRACTOR PERFORMANCE.

The General Services Administration, Public Buildings Service, will be using the National Institute of Health's (NIH) Contractor Performance System (CPS). The CPS is a Federal multiple-agency, shared-file system that collects, maintains, and disseminates contractor performance information as required by Federal Acquisition Regulation, Subpart 42.15.

Interim and final evaluations of contractor performance will be prepared on this contract in accordance with FAR Subpart 42.15. Interim evaluations will be prepared annually (to coincide with the anniversary date of the contract) and may be done at any time when there is a significant change in performance. A final performance evaluation will be prepared at the time of contract completion.

Access to interim and final evaluations will be provided to the contractor as soon as practicable after completion of the evaluation. The contractor will be permitted thirty (30) days to review the evaluation and to submit additional information, comments, or a rebutting statement. Any disagreement will be referred to an individual above the Contracting Officer, whose decision will be final.

Copies of the evaluations, contractor responses, and review comments, if any, will be retained as part of the contract file, and may be used by all participating Federal Agencies to support future award decisions.

92. In accordance with GSA's policy on the dissemination of sensitive but unclassified paper and electronic design and construction documents of owned or leased Federal facilities; any documents produced by your firm under a task/work order issued against this contract shall be prepared as follows:

A. All building plans, drawings, and specifications prepared for construction or renovation, either in electronic or paper formats shall have the following imprinted on EACH PAGE of the drawings or plans:

"PROPERTY OF THE UNITED STATES GOVERNMENT - FOR OFFICIAL USE ONLY"

B. The cover sheet of any set of drawings and the cover page of any specifications shall contain the following two (2) notices:

"PROPERTY OF THE UNITED STATES GOVERNMENT. COPYING, DISSEMINATION, OR DISTRIBUTION OF THESE DRAWINGS, PLANS, OR SPECIFICATIONS TO UNAUTHORIZED PERSONNEL IS PROHIBITED."

"Note: Unauthorized persons are those who do not have a need to know of the contents of the document. Those with a need to know would include contractors, subcontractors, suppliers, others that the contractor deems necessary in order to submit an offer or bid, or to complete the work or contract."

All other terms and conditions remain the same.

<End of clause>

## **SUPPLEMENTAL CLAUSES FOR A/E CONTRACTS**

### **1. 52.236-23 RESPONSIBILITY OF THE ARCHITECT-ENGINEER CONTRACTOR (APRIL 1984)**

- (a) The Contractor shall be responsible for the professional quality, technical accuracy, and the coordination of all designs, drawings, specifications, and other services furnished by the Contractor under this contract. The Contractor shall, without additional compensation, correct or revise any errors or deficiencies in its designs, drawings, specifications, and other services.
- (b) Neither the Government's review, approval or acceptance of, nor payment for, the services required under this contract shall be construed to operate as a waiver of any rights under this contract or of any cause of action arising out of the performance of this contract, and the Contractor shall be and remain liable to the Government in accordance with applicable law for all damages to the Government caused by the Contractor's negligent performance of any of the services furnished under this contract.
- (c) The rights and remedies of the Government provided for under this contract are in addition to any other rights and remedies provided by law.
- (d) If the Contractor is comprised of more than one legal entity, each such entity shall be jointly and severally liable hereunder.

(End of clause)

### **2. 52.236-24 WORK OVERSIGHT IN ARCHITECT-ENGINEER CONTRACTS (APRIL 1984)**

The extent and character of the work to be done by the Contractor shall be subject to the general oversight, supervision direction, control, and approval of the Contracting Officer.

(End of clause)

### **3. 52.236-25 REQUIREMENTS FOR REGISTRATION OF DESIGNERS (APRIL 1984)**

Architects or engineers registered to practice in the particular professional field involved in a State, the District of Columbia, or an outlying area of the United States shall prepare or review and approve the design of architectural, structural, mechanical, electrical, civil, or other engineering features of the work.

(End of clause)

### **4. 52.249-7 TERMINATION (FIXED-PRICE ARCHITECT-ENGINEER) (APRIL 1984)**

(a) The Government may terminate this contract in whole or, from time to time, in part, for the Government's convenience or because of the failure of the Contractor to fulfill the contract obligations. The Contracting Officer shall terminate by delivering to the Contractor a Notice of Termination specifying the nature, extent, and effective date of the termination. Upon receipt of the notice, the Contractor shall--

- (1) Immediately discontinue all services affected (unless the notice directs otherwise); and

(2) Deliver to the Contracting Officer all data, drawings, specifications, reports, estimates, summaries, and other information and materials accumulated in performing this contract, whether completed or in process.

(b) If the termination is for the convenience of the Government, the Contracting Officer shall make an equitable adjustment in the contract price but shall allow no anticipated profit on unperformed services.

(c) If the termination is for failure of the Contractor to fulfill the contract obligations, the Government may complete the work by contract or otherwise and the Contractor shall be liable for any additional cost incurred by the Government.

(d) If, after termination for failure to fulfill contract obligations, it is determined that the Contractor had not failed, the rights and obligations of the parties shall be the same as if the termination had been issued for the convenience of the Government.

(e) The rights and remedies of the Government provided in this clause are in addition to any other rights and remedies provided by law or under this contract.

(End of clause)

**5. 52.236-22 DESIGN WITHIN FUNDING LIMITATIONS (APRIL 1984)**

(a) The Contractor shall accomplish the design services required under this contract so as to permit the award of a contract, using standard Federal Acquisition Regulation procedures for the construction of the facilities designed at a price that does not exceed the estimated construction contract price as set forth in paragraph (c) below. When bids or proposals for the construction contract are received that exceed the estimated price, the contractor shall perform such redesign and other services as are necessary to permit contract award within the funding limitation. These additional services shall be performed at no increase in the price of this contract. However, the Contractor shall not be required to perform such additional services at no cost to the Government if the unfavorable bids or proposals are the result of conditions beyond its reasonable control.

(b) The Contractor will promptly advise the Contracting Officer if it finds that the project being designed will exceed or is likely to exceed the funding limitations and it is unable to design a usable facility within these limitations. Upon receipt of such information, the Contracting Officer will review the Contractor's revised estimate of construction cost. The Government may, if it determines that the estimated construction contract price set forth in this contract is so low that award of a construction contract not in excess of such estimate is improbable, authorize a change in scope or materials as required to reduce the estimated construction cost to an amount within the estimated construction contract price set forth in paragraph (c) below, or the Government may adjust such estimated construction contract price. When bids or proposals are not solicited or are unreasonably delayed, the Government shall prepare an estimate of constructing the design submitted and such estimate shall be used in lieu of bids or proposals to determine compliance with the funding limitation.

(c) The estimated construction contract price for the project described in this contract is

**(b) (4)**

(End of clause)

**6. 52.227-1 AUTHORIZATION AND CONSENT (JULY 1995)**

(a) The Government authorizes and consents to all use and manufacture, in performing this contract or any subcontract at any tier, of any invention described in and covered by a United

States patent (1) embodied in the structure or composition of any article the delivery of which is accepted by the Government under this contract or (2) used in machinery, tools, or methods whose use necessarily results from compliance by the Contractor or a subcontractor with (i) specifications or written provisions forming a part of this contract or (ii) specific written instructions given by the Contracting Officer directing the manner of performance. The entire liability to the Government for infringement of a patent of the United States shall be determined solely by the provisions of the indemnity clause, if any, included in this contract or any subcontract hereunder (including any lower-tier subcontract), and the Government assumes liability for all other infringement to the extent of the authorization and consent hereinabove granted.

(b) The Contractor agrees to include, and require inclusion of, this clause, suitably modified to identify the parties, in all subcontracts at any tier for supplies or services (including construction, architect-engineer services, and materials, supplies, models, samples, and design or testing services expected to exceed the simplified acquisition threshold); however, omission of this clause from any subcontract, including those at or below the simplified acquisition threshold, does not affect this authorization and consent.

(End of clause)

**7. 552.227-70 GOVERNMENT RIGHTS (UNLIMITED) (MAY 1989)**

The Government shall have unlimited rights in all drawings, designs, specifications, notes and other works developed in the performance of this construction without additional compensation to the Contractor. The Contractor hereby grants to the Government a paid-up license throughout the world to all such works to which he may assert or establish any claim under design patent or copyright laws. The Contractor for a period of three years after completion of the project agrees to furnish the original or copies of all such works on the request of the Contracting Officer.

(End of Clause)

**8. 552.227-71 DRAWINGS AND OTHER DATA TO BECOME PROPERTY OF GOVERNMENT (MAY 1989)**

All designs, drawings, specifications, notes and other works developed in the performance of this contract shall become the sole property of the Government and may be used on any other design or construction without additional compensation to the Contractor. The Government shall be considered the "person for whom the work was prepared" for the purpose of authorship in any copyrightable work under Section 201(b) of Title 17, United States Code. With respect thereto, the Contractor agrees not to assert or authorize others to assert any rights nor establish any claim under the design patent or copyright laws. The Contractor for a period of three years after completion of the project agrees to furnish all retained works on the request of the Contracting Officer. Unless otherwise provided in this contract, the Contractor shall have the right to retain copies of works beyond such period.

(End of Clause)

**9. 52.248-2 VALUE ENGINEERING--ARCHITECT-ENGINEER. (MARCH 1990)**

(a) General. The Contractor shall (1) perform value engineering (VE) services and submit progress reports as specified in the Schedule; and (2) submit to the Contracting Officer any resulting value engineering proposals (VEP's). Value engineering activities shall be performed concurrently with, and without delay to, the schedule set forth in the contract. The services shall include VE evaluation and review and study of design documents immediately following completion of the 35 percent design state or at such stages as the Contracting Officer may direct. Each separately priced line item for VE services shall define specifically the scope of work to be accomplished and may include VE studies of items other than design documents. The Contractor shall be paid as the contract specifies for this effort, but shall not share in savings which may result from acceptance and use of VEP's by the Government.

(b) Definitions. "Life cycle cost," as used in this clause, is the sum of all costs over the useful life of a building, system or product. It includes the cost of design, construction, acquisition, operation, maintenance, and salvage (resale) value, if any.

"Value engineering," as used in this clause, means an organized effort to analyze the functions of systems, equipment, facilities, services, and supplies for the purpose of achieving the essential functions at the lowest life cycle cost consistent with required performance, reliability, quality, and safety.

"Value engineering proposal," as used in this clause, means, in connection with an A-E contract, a change proposal developed by employees of the Federal Government or contractor value engineering personnel under contract to an agency to provide value engineering services for the contract or program.

(c) Submissions. After award of an architect-engineering contract the contractor shall--

(1) Provide the Government with a fee breakdown schedule for the VE services (such as criteria review, task team review, and bid package review) included in the contract schedule;

(2) Submit, for approval by the Contracting Officer, a list of team members and their respective resumes representing the engineering disciplines required to complete the study effort, and evidence of the team leader's qualifications and engineering discipline. Subsequent changes or substitutions to the approved VE team shall be submitted in writing to the Contracting Officer for approval; and

(3) The team leader shall be responsible for pre-study work assembly and shall edit, reproduce, and sign the final report and each VEP. All VEP's, even if submitted earlier as an individual submission, shall be contained in the final report.

(d) VEP preparation. As a minimum, the contractor shall include the following information in each VEP:

(1) A description of the difference between the existing and proposed design, the comparative advantages and disadvantages of each, a justification when an item's function is being altered, the effect of the change on system or facility performance, and any pertinent objective test data.

(2) A list and analysis of design criteria or specifications that must be changed if the VEP is accepted.

(3) A separate detailed estimate of the impact on project cost of each VEP, if accepted and implemented by the Government.

(4) A description and estimate of costs the Government may incur in implementing the VEP, such as design change cost and test and evaluation cost.

(5) A prediction of any effects the proposed change may have on life cycle cost.

(6) The effect the VEP will have on design or construction schedules.

(e) VEP acceptance. Approved VEP's shall be implemented by bilateral modification to this contract.



(End of clause)

**10. 52.232-10 PAYMENTS UNDER FIXED-PRICE ARCHITECT-ENGINEER CONTRACTS. (AUGUST 1987)**

(a) Estimates shall be made monthly of the amount and value of the work and services performed by the Contractor under this contract which meet the standards of quality established under this contract. The estimates shall be prepared by the Contractor and accompanied by any supporting data required by the Contracting Officer.

(b) Upon approval of the estimate by the Contracting Officer, payment upon properly executed vouchers shall be made to the Contractor, as soon as practicable, of 90 percent of the approved amount, less all previous payments; provided, that payment may be made in full during any months in which the Contracting Officer determines that performance has been satisfactory. Also, whenever the Contracting Officer determines that the work is substantially complete and that the amount retained is in excess of the amount adequate for the protection of the Government, the Contracting Officer may release the excess amount to the Contractor.

(c) Upon satisfactory completion by the Contractor and acceptance by the Contracting Officer of the work done by the Contractor under the "Statement of Architect-Engineer Services", the Contractor will be paid the unpaid balance of any money due for work under the statement, including retained percentages relating to this portion of the work. Upon satisfactory completion and final acceptance of the construction work, the Contractor shall be paid any unpaid balance of money due under this contract.

(d) Before final payment under the contract, or before settlement upon termination of the contract, and as a condition precedent thereto, the Contractor shall execute and deliver to the Contracting Officer a release of all claims against the Government arising under or by virtue of this contract, other than any claims that are specifically excepted by the Contractor from the operation of the release in amounts stated in the release.

(e) Notwithstanding any other provision in this contract, and specifically paragraph (b) of this clause, progress payments shall not exceed 80 percent on work accomplished on undefinitized contract actions. A "contract action" is any action resulting in a contract, as defined in FAR Subpart 2.1, including contract modifications for additional supplies or services, but not including contract modifications that are within the scope and under the terms of the contract, such as contract modifications issued pursuant to the Changes clause, or funding and other administrative changes.

(End of clause)

**SECTION V**

**A/E SCOPE OF WORK**



**U.S. GENERAL SERVICES ADMINISTRATION**  
Northeast and Caribbean Region

**PUBLIC BUILDINGS SERVICE**  
**PROPERTY DEVELOPMENT DIVISION**  
Jacob K. Javits Federal Building, New York, NY

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**INFRASTRUCTURE UPGRADE**  
**of the THURGOOD MARSHALL**  
**U.S. COURTHOUSE**

**40 CENTRE STREET**  
**NEW YORK, NY**

**ARCHITECT-ENGINEER SCOPE OF WORK**

**July 2004**

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**PROJECT TITLE:** Infrastructure Upgrade of the  
Thurgood Marshall U. S. Courthouse  
40 Centre Street, New York, NY

**Project Estimated Cost:**

Building Demo/Abatement  
Exterior Closure  
MEP/Interior Construction  
**Total Estimated Cost**

(b) (4)

**A - PROJECT DESCRIPTION**

**A.1 ARCHITECT ENGINEERING (A-E) SERVICES OVERVIEW**

The A-E shall provide planning, design and construction services with an emphasis on the engineering, historic preservation and constructability aspects for this project:

**Infrastructure Upgrade of the Thurgood Marshall U.S. Courthouse,  
40 Centre Street, New York, NY**

This U.S. Courthouse was designed by Cass Gilbert and opened in 1936. It is listed on the National Register of Historic Places and as a New York City Landmark. The 718,180 gross square foot building is located in the Civic Center of Lower Manhattan near the entrance to

(b) (7)(F)

GSA and the US Courts have jointly agreed to vacate the building in order to perform a single infrastructure upgrade project with three separate bid packages. In the spirit of cooperation and security, (b) (7)(F)

(b) (7)(F)

The project will be designed in a manner that allows GSA to potentially select three separate contractors although the same contractor could bid on all three packages. One package will include all the demolition work, a second package will include all work on the building's

exterior enclosure and a third package will include all the mechanical, electrical and plumbing (MEP), work, and all the interior construction work. All design work will be approved by the GSA Project Executive, the GSA Historic Preservation Officer and the US Courts prior to the submission to the New York State Historic Preservation Office (NYSHPO) for their approval.

## **A.2 MAJOR WORK ITEMS**

Egress issues and circulation patterns: correction of life safety noncompliance conditions and of public/staff/secure circulation patterns.

Fire protection systems: selective upgrade and expansion.

Electrical power distribution/grounding system/lighting systems: replacement and upgrade.

Emergency power system: complete replacement and upgrade.

HVAC systems: complete replacement and upgrade of all components.

Domestic water / sanitary / storm water systems: substantial replacement of floor-by-floor distribution piping.

Freight elevator: extension down to basement.

Public restrooms: selective modernization (to include ADA compliance where possible).

Telephone / data systems: replacement of existing infrastructure with a new fiber optic backbone and distribution system.

Building security screening features and security systems: interior and exterior upgrades.

Tower pyramidal roof: complete repairs, replacements, repointing, reflashings, and resealing.

Building setbacks, areaways, gutters, ledge flashings, roof drains and leaders: complete repairs/reconstruction, replacements, relining, reflashings and resealing.

Primary flat roofs (over 6<sup>th</sup> floor and two courtyards): complete replacement, reflashings and paver installation (loose laid).

Windows: complete repairs to operations and locking systems.

Masonry walls at facades, parapets, courtyards and mechanical penthouses: complete repairs, repointing, resealing, reflashings, and cleaning of entire façade.

Bulk demolition and hazardous materials removal.

Building Management system: upgrade and expansion.

Existing non-historic infill construction in corridors and lobbies: removal of existing build-outs and restoration with historically appropriate materials.

Interior space repairs: incidental to MEP infrastructure work and projected US Courts' housing plan growth.

Freight/loading dock: selective upgrades to expand interior delivery and screening areas.

Mailroom: selective alterations and upgrade to meet new standards.

Keying system: entire building to be re-keyed to a grand mastering system.

Signage (way finding): selective upgrades with historically appropriate materials.



**A.3 DESIGN AND CONSTRUCTION SERVICES** All design and construction services are included within the base and options as follows:

**A.3.1 DESIGN SERVICES (all three (3) bid packages)**

Pre-Design Survey/ Concept	(base contract) (3 concepts for HVAC systems)
Design Development	(option 1)
Construction Documents	(option 2)

**A.3.2 CONSTRUCTION SERVICES (all three (3) bid packages)**

Post Construction Contract Services (PCCS)	(option 3)
Construction Inspection Services (CIS)	(option 4)
As-Built Documents	(option 5)
A-E Monthly Site Visits	(option 6)
Total Building Commissioning	(option 7)

**B – A-E FEES**

**B.1 BASE CONTRACT and OPTIONAL SERVICES** The A-E shall submit fees separately for Base Contract Pre-Design/Concept Services and Optional Services 1-7 (including direct costs) as outlined in this scope of work. A list of proposed construction drawings and specifications is to be submitted as part of the fee proposal. To provide for Request for Information (RFI) services during construction bidding and throughout the entire construction phase, a portion of the A-E fee amounting to \$350,000 dollars will be held until construction completion in support of the GSA Construction Excellence program.

**C - GLOSSARY OF TERMS**

**C.1 Architect Engineer (A-E)** The A-E is the professional services contractor responsible to GSA and the US Courts for the design of the project. The A/E may perform additional services for GSA during the construction phase such as technical consultation services and submittal/shop drawing review.

**C.2 Conformed Construction Documents** Drawings, specifications and cost estimates that are revised to include all amendments issued subsequent to the initial release of the bid documents up to construction contract award.

**C.3 Construction Documents** All the documents required to construct the project, consisting primarily of working drawings and specifications. The working drawings provide the construction details and the specifications provide the performance requirements of the materials and products.

**C.4 General Contractor (GC)** The General Contractor is responsible for the construction of the project. The General Contractor will retain all the necessary subcontractors.

**C.5 Construction Manager (CM)** The CM is the contractor selected to assist the GSA Project Executive (PEX), GSA Project Manager (PM), US Courts and the GSA Contracting

Officer (CO) in managing this design and construction project with an emphasis on meeting the project's goals relating to schedule, budget, scope and quality. The CM provides management, technical, administrative and quality control services to assist in achieving these goals. The design CM firm is not necessarily under contract for construction. This term replaces Construction Quality Manager (CQM).

**C.6 Construction Executive (CEX)** The CEX is the principal CM employee responsible for the overall management, direction and accomplishment of CM activities and technical support on this project. The CEX may work part time on this project.

**C.7 Quality Control Superintendent (QCS)** The CM employee designated as the key on-site CM representative responsible for ensuring the delivery and the quality of the day-to-day construction management services to be provided by the CM.

**C.8 Contracting Officer (CO)** The GSA associate with the authority to enter into, administer, and/or terminate contracts and make related determinations and findings on behalf of the government. The CO will delegate certain powers within authorized limits to designated trained personnel, such as the Contracting Officers Representative (COR), as listed in the Federal Acquisition Regulations FAR 52.202-1(f).

**C.9 Contracting Offices Representative (COR)** The GSA associate delegated to represent the Contracting Officer with respect to a specified list of administrative and /or technical duties. The COR's duties are generally specified in a delegation letter to which all parties are copied.

**C.10 Property Manager** The GSA associate responsible for the operation of the courthouse(s).

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**C.11 Substantial Completion** The time in the project when the GC has met the construction contract requirements and the project is capable of being occupied or used by the US Courts, the US Marshals Service and GSA for its intended purpose, except for a list of minor work items remaining to be performed or corrected which is prepared by the CM and approved by the CO, in conjunction with the US Courts.

**C.12 Supplemental Services** These are additional services beyond the initial scope of work that may be required to complete the design and construction of the project. A negotiated contract modification to the A-E contract is required for these services.

**C.13 Building Shell and Tenant Allowance** The Building Shell and Tenant Improvement Allowance (TI), see the GSA Pricing Desk Guide, chapter 3, paragraphs 2.2 and 2.3 in edition # 2, including change # 1.

**C.14 Assistant Circuit Executive for Space and Facilities** The Court Officer who serves as the liaison between the Court Executives and Court's Building Committee with GSA.

**C.15 Project Executive (PEX)** The designated GSA associate who has the primary responsibility to plan, coordinate and control all primary and support activities to ensure that all goals and objectives are met, with emphasis on project schedule and budget. The Project Executive is the primary point of contact with the US Courts and is the single point of accountability to GSA for this project.

**C.16 Project Manager (PM)** The GSA associate who will manage all aspects of the project on a daily basis. The PM will work with the PEX, the CO, the COR, the US Courts, the A-E and the CM from the project start until project completion.

**C.17 Value Engineering (VE)** An organized effort to critique design solutions for those changes that shall achieve the best performance at the least cost.

## **D - GSA DESIGN PHILOSOPHY & INITIATIVES**

**D.1 GSA DESIGN PHILOSOPHY** GSA is committed to excellence in the design and development of its sites and buildings. This means an integrated approach that meets the requirements of the building's users and accomplishes the mission of Federal tenant agencies while providing for cost-effective maintenance throughout the building's useful lifespan. At the same time the building must achieve a high aesthetic standard, making it a lasting architectural legacy that will serve the American people for many decades. Changes from the requirements imposed by public laws, federal procurement regulations, executive orders and similar regulations are not authorized. The A-E shall make use of equivalency clauses in all building codes and government or industry facility standards to ensure flexibility of design. If there is a conflict between a code requirement and a GSA requirement based on federal law, executive order or GSA owner requirement, the GSA requirement will prevail if it is more restrictive as approved by the CO after discussion with the US Courts.

**D.2 DESIGN EXCELLENCE** The Design Excellence program incorporates private sector peer professionals, GSA and judicial representatives in the selection of A-E design teams and in the review of the proposed design. Members of the GSA Peer Registry will aid in A-E selection and in the design review. Design excellence entails ensuring that the project design will fulfill the program requirements in a cost-effective manner and permit the construction to be accomplished within the designated schedule and budget limitations. It also entails ensuring that the construction will be of durable materials that prolong the life of the structure and ensuring that the engineering systems will be selected for long term performance, and that they will be integrated with the architecture and respond to the environmental and energy issues. The GSA Design Excellence Program Guide is available as a PDF document. The A-E shall participate in two one-day sessions of peer review held in the A-E's office (one review during the pre-design survey/concept stage and one during the design development stage). The A-E shall present drawings and other material.

**D.3 CONSTRUCTION EXCELLENCE** The GSA Construction Excellence program is based on the same principles as the Design Excellence program and incorporates private sector peer professionals, GSA and judicial representatives in the evaluation of GSA construction projects. For the A-E, Construction Excellence entails attending all

constructability reviews, providing design briefings to the US Courts, attending Partnering workshops, providing project document copies for independent cost estimates, making all design revisions to bring the project within budget at no cost to the GSA, and processing all "Requests for Information" inquiries in a timely manner during both the bidding and construction periods.

**D.4. INNOVATIVE DESIGN** Deviations may be made from any technical requirements in the criteria in order to provide the latitude needed for innovative design, new concepts, value analysis techniques, and the adjustment of quality level to suit the type of building under design. This is allowed only when a professional judgment has been made that a safe, adequate, more economical and biddable, or better design will result. The A-E is encouraged to discuss this with GSA in conjunction with the US Courts to ensure a complete understanding of this important matter.

## **E - DESIGN REQUIREMENTS and REFERENCES**

### **E.1 GSA DESIGN REQUIREMENTS**

**E.1.1 GSA FACILITIES STANDARDS** The GSA Facilities Standards for the Public Buildings Service PBS P-100 (2003) is the document that provides the design standards and criteria for all new buildings, major and minor alterations, and work in historic buildings for the Public Buildings Service of GSA. This document contains the policy and technical criteria to be used in the programming, design, construction and documentation of GSA buildings. All the submission requirements for drawings, specifications and reports are listed in this publication.

**E.1.2 CAD STANDARDS** The GSA CAD Standards are composed of several documents. These are the PBS CAD Standards (2004) and the PBS Assignment Drawing Guidance (2000), which should be used in conjunction with the BOMA publication, Standard Method for Measuring Floor Area in Office Buildings, ANSI/BOMA Z65.1-1996. CAD files for layering and title blocks are available on-line at [www.gsa.gov](http://www.gsa.gov).

**E.1.3 SPACE STANDARDS** Space standards are found in the GSA Customer Guide to Real Property and in the Federal Management Regulations FMR 102-79 Assignment and Utilization of Space (2003).

**E.1.4 COST ESTIMATING** Facilities Standards for the Public Buildings Service PBS P-100 (2003) includes general cost estimating requirements. Project Estimating Requirements PBS P 3440.5 (1981) is the GSA handbook for estimating. This handbook establishes the standards for the quality and, until recently, the level of estimating detail and schedule of cost estimate submissions to be provided by the A-E during the design stages of a project. The summary formats in this handbook use the Uniformat system of estimating as distinguished from the MasterFormat (CSI) format of estimating. A new GSA estimating handbook is currently being prepared using the new expanded Uniformat II system and may be available in 2004. The PBS Project Cost Estimating Tool, (latest edition), which currently utilizes the Uniformat II system, shall be used to establish the level of detail in preparing the cost

estimates during all design stages of the project. Section K in this Scope of Work shall be used to establish when the cost estimates shall be submitted by the A-E. The use of the GSA Pricing Desk Guide, (latest edition), is required to separate the costs for the building shell and tenant improvement allowance in each estimate. GSA will have independent estimates performed by a separate consultant at the Design Development, 50% and 100% Construction Documents phases to compare with the A-E's estimates. The cost estimating consultant of the A-E team shall attend all design meetings. All estimates will be reviewed by the A-E, CM, GSA and US Courts during all design phases.

**E.1.5 SPECIFICATIONS** All specifications in GSA projects are performance specifications, with no sole source items allowed. GSA has adopted the AIA MASTERSPEC (GSA supplement necessary for Divisions 1 and 15) as the standard specifications to be used on all GSA projects. This material is available on line for purchase from ARCOM at www.arcom.net. The General Guide for Editing Specifications (1988) is the GSA guide for preparing project specifications.

**E.1.6 ENGLISH MEASUREMENTS** This project will be designed and constructed in **English units** (inch/foot/pound, etc.).

**Metric Measurements WILL NOT Be Used On This Project**

**E.1.7 NATIONAL BUILDING CODES** GSA has adopted the International Code Council (ICC) family of building codes, including the International Building Code (IBC), the International Fire Code (IFC), the International Plumbing Code (IPC), the International Mechanical Code (IMC) and the International Energy Conservation Code (IECC). GSA has adopted the technical egress requirements of the NFPA Life Safety Code (NFPA 101) in lieu of the technical egress requirements of the IBC. GSA has also adopted the technical electrical requirements of the NFPA National Electric Code (NFPA 70) in lieu of the technical electrical requirements of the ICC Electrical Code.

**E.1.8 ACCESSIBILITY** GSA requires the use of Federal Standard 795, the Uniform Federal Accessibility Standards (UFAS). GSA also requires compliance with the requirements of the Title III Standards the Americans with Disabilities Act (ADA), 42 USC 4151, where those requirements are more stringent than Federal Standard 795.

**E.1.9 SECURITY DESIGN** GSA requires the use of several standards for the security design for this project including all the material listed in chapter 8 of the GSA Facility Standards PBS P-100 and the United States Marshals Service (USMS) Requirements and Specifications for Special Purpose and Support Space Manual (Publication #64).

**E.1.9.1 ISC Security Design Criteria for New Federal Office Buildings and Major Renovation Projects (revised 2004)**. This project is subject to these criteria as implemented by GSA Instructional Letter PBS-IL-02-1 (2001).

**E.1.9.2 Vulnerability Assessment of Federal Facilities (1995)** This report, prepared by the Department of Homeland Security, provides a minimum set of security standards for federal buildings. The Thurgood Marshall US Courthouse is a level IV facility.

**E.1.9.3 GSA Design Notebook for Federal Building Lobby Security (2003)** The purpose of this notebook is to provide effective models for federal building lobby security screening stations using the experience of the USMS and GSA from completed projects nationwide. It effectively illustrates the use of USMS and GSA criteria for lobby security.

**E.1.9.4 GSA Public Utility Service Emergency Planning and Operations Guide (2003)** This guide is to serve as an aide in planning and installing provisions for the continuity of operation of government buildings in the event of utility supply disruptions and emergencies of all sorts including terrorist attacks, natural disasters and blackouts.

#### **E.1.10 HISTORIC BUILDINGS PROGRAM**

**E.1.10.1 GSA Orders concerning Historic Preservation** This project is subject to all the provisions of GSA order ADM P 1020.2 Procedures for Historic Properties (2003). This order clearly explains the authority for Historic Preservation as contained in all the Federal Laws, Regulations, and Presidential Directives.

**E.1.10.2 National Historic Preservation Act** This courthouse is listed on the National Register of Historic Places and is subject to all the provisions of the National Preservation Act of 1966 (16 USC 470).

**E.1.10.3 Secretary of the Interiors Standard for Rehabilitation** This project is subject to the Secretary of the Interiors Standards for Rehabilitation (36 CFR 67)

**E.1.11 VALUE ENGINEERING** GSA requires Value Engineering as an integral part of the design and construction delivery process for all GSA building projects. The Value Engineering Program Guide PBS PQ-251 (1993) provides guidance on implementing Value Engineering in all project phases. VE services will be provided by an independent VE consultant under a separate GSA contract, with support from the A-E, the CM, GSA and the US Courts.

#### **E.1.12 REQUIREMENTS OF THE U. S. COURTS and U. S. MARSHALS SERVICE**

**E.1.12.1 U. S. Courts Design Requirements** The design of this project will reflect the requirements listed in the U. S. Courts Design Guide (1997), Standard Level Features and Finishes for U.S. Courts Facilities (1996), Courtroom Technology Manual (1999), US Courts Courthouse Design reference Manual (2002), Telecommunications Cabling Systems in Judiciary Buildings (IRM 99-6, 11/18/99), Judicial Conference Action Safe Mail Handling Practices 8/12/02 and Mail Room Design Requirements (2004) and Guide, Volume 1, Chapter 5, Property Management and Furniture.

**E.1.12.2 U. S. Marshals Service Design Requirements** The design of this project will reflect the requirements listed in the three (3) volumes of the USMS Design Guide that is known as USMS Publication # 64 and titled:

Requirements and Specifications for Special Purpose and Support Space Manual

Volume 1 Engineering and Architectural (2001)

Volume 2 Electronic Security and Hardware (2001)

Volume 3 Judicial Security Systems, Electronic Security (2000)

### **E.1.13 SUSTAINABLE DESIGN**

**E.1.13.1 LEED Certification** The Thurgood Marshall US Courthouse goal is to achieve a **LEED Certified** rating through the Leadership in Energy and Environmental Design (LEED) Green Building Rating System of the U. S. Green Building Council, (version 2.1, November 2002).

**E.1.13.2 Recycled Content Construction Products** GSA is required by law to use recycled content products in the construction of our buildings. This is the GSA Affirmative Procurement Program listed as GSA order OGP 2851.1 (2000). Further details are available online at <http://fss.gsa.gov/enviro>. These recycled content products are designated by the Environmental Protection Agency, (EPA) in its Comprehensive Procurement Guidelines (CPG) program. Examples of CPG construction products are listed in chapters 3 and 4 of the GSA Facilities Standards PBS P-100. Information on the EPA's list of designated CPG products can be obtained at the EPA website <http://www.epa.gov/cpg>

**E.1.13.3 Construction Waste Management** Reducing and recycling construction waste is a GSA goal and one of the LEED criteria. The A-E will develop recycling goals that will be incorporated into the contract documents using WASTE-SPEC available on-line at the Triangle J council of governments web-site <http://www.tjcog.dst.nc.us/edwaste.htm>

**E.1.13.4 Whole Building Design Guide (WBDG)** The WBDG is a web-based portal established by several Federal agencies that provides information on sustainable design and Federal design and construction criteria. The essential principles of sustainable design as listed in this guide and in chapter 1.6 of the GSA Facilities Standards PBS P-100 shall serve as the basis for the planning, design, construction and operation of all new and renovated GSA facilities. The WBDG is available at the WBDG web-site <http://www.wbdg.org>

**E.1.13.5. Sustainable Design / LEED Workshops** Workshops will be used to coordinate the design of this project with the requirements for the project's LEED rating, the use of recycled construction products, the application of construction waste management goals and the incorporation of sustainable design principles from the Whole Building Design Guide. The goal is to produce a sustainable green building design that conserves natural resources with minimal negative environmental impact.

#### **E.1.13.6 Additional Green Design Publications**

**E.1.13.6.1 GREENING FEDERAL FACILITIES 2<sup>nd</sup> Edition** (2001) This 211-page publication produced for the U S Dept. of Energy, Federal Energy Management Program, is available as a PDF document. It is primarily oriented towards new construction, but it contains some material concerning construction waste management and building operations.

**E.1.13.6.2 GREEN COURTHOUSE DESIGN CONCEPTS** (1997) This 52-page publication produced by GSA after a panel & conference in November 1996, is available as a PDF document. It summarizes courthouse building features and project delivery concepts advocated by a panel of sustainability experts. The then proposed U. S. Courthouse Expansion project in Denver Colorado served as the model for the panel to evaluate green building systems and design opportunities.

**E.1.13.6.3 SUSTAINABLE BUILDING TECHNICAL MANUAL** (1996) This 292-page publication produced by the EPA, DOE and U S Green Building Council is available as a PDF document. It is primarily oriented towards new project development and design.

#### **E.1.14 ENERGY CONSERVATION COMPLIANCE**

**E.1.14.1 GSA Energy Conservation Performance Standards** GSA has adopted the latest edition of ANSI/ASHRAE/IESNA standard 90.1 titled, "Energy Efficient Design of New Buildings except Low Rise Residential Buildings", with the exceptions of lighting design and power allowances for normal system receptacles including task lighting. Interior lighting design must also conform to the requirements shown in table 6-4 on page 206 of the GSA Facilities Standards PBS P-100. Power allowances for normal system receptacles including task lighting must also conform to the requirements shown in table 6-1 on page 188 of the GSA Facilities Standards PBS P-100. ANSI 90.1 meets or exceeds the Commercial Energy Standards listed in the Code of Federal Regulations 10-CFR part 434.

**E.1.14.2 Executive Order 13123 Greening the Government through Efficient Energy Mgmt.** This order requires reduction in emissions and improvement in energy management. GSA is responsible for providing leadership in promoting energy efficiency and renewable energy in GSA buildings and products. This order establishes a national program goal of reducing building energy consumption by 35 percent from a 1985 baseline.

**E.1.14.3 Executive Order 13101 Greening the Government through Waste Prevention, Recycling and Federal Acquisition** This order requires Federal agencies to use recycled content and environmentally preferable products. This order also directs agencies to consider a broad range of environmental factors in developing plans and project specifications.

**E.1.14.4 Energy Rebates** In the pre-design stage, the A-E shall identify and evaluate available utility rebates. The A-E shall coordinate the evaluation with GSA and provide the necessary documents to the utility companies. All rebates will accrue to GSA. The A-E shall



submit the project to the NYS Energy Research and Development Authority (NYSERDA) to apply for energy saving incentives. Rebates are not to be included in the project budget.

**E.1.15 LIFE CYCLE COSTING** Life cycle costing (LCC) is an economic analysis tool used in the selection of alternatives that impact both pending and future costs. Its use is also required in the selection of all building design elements that impact energy use, such as the building envelope, lighting and fenestration. The details of LCC use within GSA are fully explained in chapter 1.8 of the GSA Facilities Standards, PBS P-100.

#### **E.1.16 ENVIRONMENTAL POLICIES AND REGULATIONS**

**E.1.16.1 National Environmental Policy Act (NEPA)** GSA implements the requirements of NEPA in accordance with Council on Environmental Quality (40-CFR 1500-1508) and GSA Order ADM 1095.1f, (Environmental Considerations in Decision Making).

**E.1.16.2 Hazardous Materials** The GSA requirements for the removal, abatement and reporting of hazardous materials (asbestos, lead, etc.) are listed in chapter one of the GSA Facilities Standards PBS P-100.

#### **E.1.17 BUILDING COMMISSIONING**

**E.1.17.1 Building Commissioning Guidance** This project will employ Total Building Commissioning (TBC) if the option for it is exercised in the Construction Manager's contract. This process will start during the pre design/concept phase of the M/E/P and interior construction design then continue through design, construction and building start-up and end with a post-occupancy evaluation of the project. Under TBC, a Commissioning Consultant will be sub-contracted by the CM and work with the A-E, GSA and the US Courts to ensure the commissioning process. A GSA booklet entitled Building Commissioning (2003) that details the broad outlines of the program is available. A more detailed GSA Building Commissioning Guide is currently being prepared and will be issued in summer/fall 2004. Until that guide is available the guidelines in chapter 1.4 of the GSA Facilities Standards PBS P-100 (2003), which further references ASHRAE Guideline OP entitled The Commissioning Process shall be followed. If the TBC option in the CM's contract is not exercised, the extent of Building Commissioning may be reduced, however, the A-E's role remains the same as defined in GSA Facilities Standards PBS P-100 (2003). The A-E shall coordinate with the CM and, if contracted separately, the Commissioning Consultant to fully define commissioning based issues and testing procedures.

**E.1.18 DESIGN REQUIREMENTS COMPLIANCE REPORT** The A-E shall prepare a report at the end of each design phase detailing how each of the preceding design requirements (keyed to paragraph numbering) is being integrated into the design of this project. The report will consider whether the design complies with all the requirements. If the design does not comply, the A-E shall identify which items do not comply and describe proposed solutions to bring the design into compliance. The A-E shall also identify any actions required of the GSA, CM, US Courts, US Marshals Service or any other party that will enable the design and construction of this project to comply with regulations. The final

report submitted by the A-E shall certify that the final contract documents comply with all design requirements.

### **E.1.19 PARTNERING**

**E.1.19.1 Partnering** GSA will promote cohesive partnering between GSA, the US Courts, the US Marshals Service, the A-E, the CM, the GC and the construction subcontractors from the design award through the construction phase. GSA order PBS 3400.16 (1994) Partnering Within the Public Building Service is the guiding reference. Partnering enhances communications, improves planning, assists in identifying roles and responsibilities, and contributes to resolving conflicts by using a team approach. The objectives of the program are effective contract performance and achieving the completion of the project within budget, on schedule and in accordance with the project requirements. The Partnering program is to be organized by the CM. The CM will hire a Partnering facilitator to organize and run all the Partnering workshops. The A-E shall participate and send their project manager and lead designer to all workshops. Partnering will function independently of this scope of work and not alter the terms and conditions of this contract.

**E.1.19.2 Alternative Dispute Resolution (ADR)** The CO will require the A-E, the CM and all contractors to participate in resolving differences through ADR practices. Procedures that may be applied are negotiation, mediation, fact-finding, mini-trial, arbitration, or any combination thereof. ADR practices are to be integrated into Partnering. GSA order CSL P 5050.1 Using Alternative Dispute Resolution Techniques is the guiding reference for this.

**E.1.20 GSA SENSITIVE BUT UNCLASSIFIED (SBU) DOCUMENT SECURITY** SBU document security is required to reduce the risk that GSA building information will be used for dangerous or illegal purposes by terrorists or others. The A-E shall comply with PBS order 3490.1, (2002) which is titled Document Security for Sensitive but Unclassified (SBU) Paper and Electronic Building Information. This 10 page document covers the procedures and labeling requirements for SBU documents during all project phases including design, construction procurement, construction administration, building commissioning and ongoing building operations. It is meant to reduce the possibility of harm while still respecting GSA's legitimate business needs to allow access to SBU building information by those with a need to know, such as design professionals, contractors and others. The general principles of this policy are to give SBU project information only to those who have a need to know, to keep records of who received SBU project information, to safeguard SBU project information during use and to destroy it properly after use.

### **E.2 REFERENCES**

**E.2.1 EXISTING BUILDING DRAWINGS and OTHER INFORMATION** The A-E will have access to all existing building drawings in the GSA Property Management Division drawing plan room also known as the CAD and Project Library (2PMD). In addition, some record drawings have been scanned and digitized and are available through the regional **Documentum Webtop** drawing database. All costs for copies of this material shall be part of the A-E's direct costs for this project. GSA takes no responsibility for the accuracy or

completeness of the data available from our existing drawings. It is the A-E's responsibility to confirm all the information contained in any existing drawing which it elects to use on this project. All existing drawings are considered SBU Documents and are subject to all the restrictions on such material.

**E.2.2 PREVIOUS DESIGN STUDIES** The following design studies have been performed on this building and one (1) copy of each will be provided to the selected A-E. The results of these studies will be used in the formulation of the project's design and incorporated into the design documents as required.

**E.2.2.1 Prospectus Development Study** This study was prepared by Vitetta Associates of Philadelphia, PA and its consultant team for the Administrative Office of the U.S. Courts, the US Court of Appeals for the Second Circuit and the United States District Court, Southern District of New York. The report was completed in April 2002. A 56 page addendum, prepared by Vitetta Associates, was completed in March 2003.

**E.2.2.2 Historic Structures Report** This report was prepared by the Paul Partnership of New York, NY for GSA and completed in January 1986.

**E.2.2.3 Historic Building Preservation Plan** This report was prepared by Swanke Hayden Connell Ltd. and Paul K. Y. Chen Architects, both of New York, NY, for GSA and completed in August 1992.

## **F - CONSTRUCTION MANAGEMENT (CM)**

**F.1 CONSTRUCTION MANAGEMENT CONSULTANT (CM)** GSA will retain the services of a construction management (CM) consultant. The CM will review all submissions by the A-E and attend meetings in the A-E's office, at GSA and the US Courts. The CM will perform construction phase services and maintain a construction inspector(s) at the Thurgood Marshall US Courthouse during construction. The A-E will be required to familiarize the CM with its office facilities and the personnel assigned to the project. The A-E shall work with the CM Team during the design and construction phases of the project. The A-E Team, the CM Team, the GSA Team and the US Courts Team will attend scheduled meetings at the A-E's office throughout the entire design phase of the project. The A-E shall inform the CM, GSA and the US Courts of its goals in achieving design and construction excellence and shall provide the CM team with an opportunity to comment regarding the achievement of those goals. The A-E shall cooperate with the CM to ensure a coordinated professional flow of work. The A-E and CM teams shall submit reports to GSA and the US Courts on a schedule to be set by the respective parties.

**F.2 ELECTRONIC PROJECT MANAGEMENT (e-PM)** The A-E shall use the Electronic Project Management (e-PM) system selected by the Construction Management (CM) consultant for this project and approved by GSA, after consultation with the US Courts. e-PM is an internet-based information and project communication system, which permits parties on a project team to communicate, collaborate and cooperate in an electronic environment by means of a web browser. The contract for the Electronic Project

Management system is part of the CM's scope of work. The Electronic Project Management (e-PM) system will include all types of project documentation: written, drawn, electronic and photographic. This includes both hard copy and electronic documentation products for all stages of a project. GSA currently uses **Dr Checks** for design review and **Buzzsaw** construction program tools for this purpose on many projects. The project documentation and filing will be retained and maintained by the CM project team in the internet-based information and project communications system for use by all parties. The system will include job folders, working folders and all record keeping for the duration of this project. It will permit the maintenance of logically organized construction files and record all incoming and outgoing communications including, but not limited to, these items:

Agendas	Geological hazard reports
Announcements	Geo-technical reports
Assistance in obtaining warranties	Hazardous materials assessments
Back checks of design comments	Inspection reports
Budgets	Life cycle cost reports
Calculations	Meeting minutes
Certified payroll information	Memos
Claims avoidance	Miscellaneous logs
Change orders and issues	Miscellaneous submittals
Code analysis reports	Models
Contract modifications	Occupancy issues
Commissioning	Payment applications/Financial records
Construction certifications	Permit tracking
Construction testing reports	Photographs: design & construction
Cost estimates	Project directory
Cost reductions	Punch lists
Daily contractor reports	References
Daily CM field observation reports	Requests for Information (RFI)
Design certifications	Sample submittals
Design comments	Schedules
Design narrative reports	Shop drawing logs
Design progress reports	Site logistics reviews
Design submissions	Site survey
Drawings	Site weather reports
E-Mails	Sketches
Forms & Field orders	Specifications

**F.2.1 PROJECT LOGS** The A-E shall maintain logs registering the transmittal, the receipt, the posting dates and action(s) taken of all submittals during design and construction. The A/E logs and the CM logs **MUST** be crossed referenced for accuracy in tracking all information.

**F.2.2 DESIGN PHASE PHOTOGRAPHS** The photographic prints, negatives and digital image data of any photographs of design-related issues and events produced by the A-E shall be organized, logged and turned over to the CM for archiving with the photographs taken

during the later construction phase of this project. The A-E shall coordinate its electronic camera criteria with the CM's secure digital photo management system. The CM will be supplying a secure digital photo management system compatible with the LYNX digital photo management system.

## **G - A-E DESIGN SERVICES**

**G.1 A-E DESIGN SERVICES SUMMARY** The A-E shall provide the following design services listed below for all project phases as required (including, but not limited to): Architecture, Acoustical Engineering, Graphics and Signage, Courts Planning, Cost Estimating, Elevator Design, Civil Engineering, Electrical Engineering (including Lighting, Power, Emergency Power, Telephone and Data), Hazardous Materials Removal, Mechanical Engineering (including HVAC, Plumbing and Building Management Systems), Structural Engineering, Fire and Life Safety Engineering, Historic Preservation, Interior Design, Security and Blast Design, Sustainable Design, (including LEED and Construction Waste Management), & Value Engineering.

## **G.2 MISCELLANEOUS A-E DESIGN SERVICES**

**G.2.1 A-E Meetings and Meeting Minutes** The A-E shall schedule and conduct all meetings as necessary and as directed by GSA. Prior to all meetings the A-E shall schedule and arrange for meeting places, provide advanced notice of meetings to all attendees, prepare the meeting agenda and distribute it to all attendees prior to the meetings. During the meetings the A-E shall function as the meeting chairperson, addressing all old and new business, recording the meeting minutes, and controlling discussions to focus on results and resolution of problems. The A-E shall record, publish and distribute, via both print and electronic mediums, the minutes of all design phase meetings. The A/E shall distribute all agendas and meeting minutes for all project meetings, attended or not attended by GSA and/or US Court's management teams to GSA, the CM and the US Courts for the record. The A-E shall work with the CM and GSA, in conjunction with the US Courts, to develop a meeting minutes format that is agreeable to all parties and this format will be used consistently for the entire duration of the project. The A-E shall endeavor to reduce the number of separate meetings by combining them wherever possible.

**G.2.2 US Courts Design Briefings** The A-E shall provide a design briefing to the US Courts in either the Thurgood Marshall or Daniel Patrick Moynihan US Courthouses one week after the receipt of the submittals for each design phase to ensure that the US Courts fully understand the submittal. GSA in conjunction with the US Courts will coordinate the time and place of these briefings.

**G.2.3 Independent Cost Estimates** The A-E shall provide two sets of project documents for review by an independent cost estimator at the Design Development, 50 % Construction Documents and 100% Construction Documents submissions. The A-E shall distribute the documents to the independent estimator as directed by the CO.

**G.2.4 Value Engineering Workshops (VE)** The A-E and all its primary consultants shall attend all VE sessions. A VE workshop facilitator contracted by GSA will conduct two (2), VE workshops at 26 Federal Plaza. The first two-day workshop will occur after the Pre-Design/Concept submission. The second two-day workshop will occur after the Design Development submission. After discussions with GSA, the US Courts and the CM, the A-E shall incorporate the agreed to VE ideas generated at these workshops into the project's design. The A-E and CM shall submit reports on the VE workshops and subsequent implementations to GSA and the US Courts on a schedule to be set by the respective parties.

**G.2.5 Constructability Reviews** The A-E and all its consultants, GSA, the US Courts and the CM will participate in two (2), one-day constructability reviews with GSA's Construction Peers. These reviews will be facilitated by the CM during the design phase. The date of these reviews will be established as part of GSA's master project schedule.

**G.2.6 Partnering Workshops** The A-E shall participate in a one-day Partnering workshop with the GC, its subcontractors, CM, GSA and the US Courts. The workshop will be facilitated by the CM after the construction contract and notice to proceed are issued by the CO. Two (2), additional one-day workshops will also be held during the construction phase. A-E attendance at these two (2) follow-up workshops will be options to this contract.

**G.2.7 Requests for Information (RFI)** The A-E shall provide clarification, coordination and interpretation of the design documents during both the bidding and construction phases to GSA, the US Courts the CM, the GC and the bidders. The A-E shall process all "Requests for Information" submitted in a timely manner and maintain a database recording the inquiries and their answers. When requested by GSA, written clarification and interpretation of any portions of the construction documents in question will be submitted by the A-E to GSA and the US Courts in the form of drawings, specifications and reports with cost estimates for any revision or clarification. Field visits by the A-E will be required to support these revisions and clarifications. The RFI logs will be submitted to GSA and the US Courts on a schedule to be set by the respective parties.

**G.2.8 Hazardous Materials Consultant** This project will require the services of a Hazardous Materials consultant licensed in the City of New York for the removal/abatement design for the Asbestos, Lead, PCB's and other hazardous materials currently existing in the courthouse. See chapter one of the GSA Facilities Standards PBS P-100 for further details.

**G.2.9 Historic Preservation Consultant** The Thurgood Marshall US Courthouse is listed on the National Register and will require a consultant with a minimum of five (5) years experience. The consultant must have presented at least three projects to the New York State Historic Preservation Officer (NYSHPO) for review and/or consultation where each project had a construction cost greater than twenty million dollars. This consultant shall be licensed and registered as an Architect in the State of New York.

**G.2.10 LEED Consultant** This project will require the services of a LEED accredited professional as part of the design team. The U.S.Green Building Council issues this

credential. The A-E will register the project for LEED Certification with the U S Green Building Council.

**G.2.11 Sustainable Design / LEED Workshops** There will be a one day workshop at the pre-design/ concept stage with half day follow-up workshops for each design phase submission including design development, (except for Bulk Demolition), 50% and 100% construction documents for each of the three bid packages. The follow-up workshops will review, modify and refine the initial ideas developed at the first workshop to ensure they are integrated into the project. The workshops for separate bid packages can be combined into one workshop if they are at the same stage of design development. All members of the project team (the A-E, CM, GSA and U S Courts) will send representatives to each of these workshops. A report shall be prepared by the A-E after each workshop and the report shall be distributed to all team members.

**G.2.12 Presentation Models and Renderings** Renderings and/or CAD generated perspectives may be required for presentation if the infrastructure upgrades have to alter any historic architectural character of the Courthouse.

**G.2.13 Art in Architecture** NO Art in Architecture services are required for this project.

## **H – SUBMITTALS**

**H.1 GENERAL SUBMITTAL REQUIREMENTS** The A-E shall prepare all project documents and coordinate their submission with the documents prepared by their consultants. They shall also coordinate each submission with the CM, GSA and the US Courts as required. Each of the listed submissions has special requirements and parameters, as contained in this scope of work. Each submission shall be complete and include all required material, corrections and modifications from previous submissions and reviews. Any work that the CO considers incomplete or not in compliance with the standards listed in this contract will be returned for completion and/or correction. The A-E shall use a quality control system comparable to the REDI-Check system for this project.

All submitted material furnished by the A-E under this contract becomes the property of the government. The A-E shall provide for the timely reproduction and distribution of each submission to comply with the design schedule as listed in this contract. This means the submissions will be delivered to the GSA and the US Courts ready for review on the dates listed in the design schedule. The A-E shall reproduce in-progress documents for the CO when requested at no additional cost to GSA. All submissions will consist of both hard copy (paper or polyester film) and electronic files (CD-ROM discs). The required quantities of each deliverable are listed for each design phase submission later in this document.

The final submission of electronic files in the GSA-approved media shall include a GSA-approved database for archiving in the GSA electronic library currently the Documentum Webtop program. The final corrected construction document submission shall include a statement signed by the A-E and all applicable consultants certifying the completeness, accuracy and coordination of the submission. The construction documents shall be complete,

coordinated between disciplines and able to be bid upon and used for construction without additional interpretation. The A-E shall submit complete drawings, specifications, and calculations for all disciplines. Construction documents shall incorporate GSA standard drawing sizes and title blocks. The final documents shall be submitted to GSA, the US Courts and the CM on the date established in the GSA master project schedule. Any deviations from meeting this date must be approved by the CO in advance and noted on the GSA master project schedule.

**H.1.1 DESIGN NARRATIVES REPORTS AND OTHER REPORTS** All design narratives reports and all other report submissions shall be in Microsoft Word for Windows (latest release) file format. The number of copies required, both paper and electronic are listed for each design phase submission later in this document.

**H.1.2 LIFE CYCLE COST ANALYSIS STUDIES** All Life Cycle Cost Analysis Studies submissions may be either manual and/or computer based in either the Microsoft Word or Excel for Windows file formats (latest release). If some other file format is proposed, the approval of the CO will be required. The accompanying narrative for these studies shall be in the Microsoft Word for Windows file format. The number of copies required both paper and electronic are listed for each design phase submission later in this document.

**H.1.3 DRAWINGS** All drawings shall be prepared in the **AutoCAD** (latest release) file format. Layering of drawings shall be as listed in the PBS CAD Standards (2004). All CAD Drawings are to be accessible to GSA and the US Courts to open, modify, and/or plot drawing files without the need for add-on features or software packages. Only the standard features in the latest version of **AutoCAD** shall be used. Each drawing shall be independent and external references shall be bound prior to submission. The number of copies and other requirements for the drawings are listed for each design phase submission later in this document. Drawing files shall be submitted in DWG and DWF (HPGL2 compatible) formats on CD-ROM's. The DWF format shall match exactly the plotted drawings submitted. DXF files and other forms of file translation are not acceptable. Drawings created in other CAD programs and translated into AutoCAD are not acceptable. The final construction document drawings and as-built drawings (post construction) shall be submitted on reproducible 4-mil polyester film. The layout and format for each drawing shall follow GSA templates. The drawings and the lettering on them shall be precise, sharp and completely legible at half size reduction. All statements and notes on the drawings shall be in the present tense and not in the future tense. The drawings shall not contain the word "new". There shall be no brand names mentioned except for purposes of color matching. All the A-E samples of proposed drawing formats for this project shall be submitted for approval to the CO. GSA will provide the standard information required for the title block.

**H.1.4 SPECIFICATIONS** The A-E shall prepare specifications using MASTERSPEC published by the AIA in Microsoft Word for Windows (latest release) file format as per the GSA Facilities Standards PBS P-100. A GSA supplement is necessary for Division 1 and Division 15. The preliminary submission of each specification section shall be a clearly marked up copy to provide GSA and the US Courts with clearly identified deletions. All the specifications shall be performance specifications with no sole-source items listed. All items



shall generally be available from at least three different manufacturers. The number of copies required both paper and electronic are listed for each design phase submission later in this document.

**H.1.5 COST ESTIMATES** The A-E shall provide detailed cost estimates for each stage of the project as specifically described in Section K, based on the cost estimating requirements in Section E.1.4. Additionally, the A-E shall provide separate cost estimates broken out by shell/tenant improvements and “above-standard” costs for the US Courts and US Marshals Service. All estimates shall be prepared in Microsoft Excel for Windows (latest release). The A-E may use either the Unifomat II or the CSI format for the detailed back-up estimates, but the summaries shall be prepared using the Unifomat II system on GSA forms 3474 and 3473. If the CSI format is used for the detailed back-up estimates, CSI format summaries equivalent to GSA forms 3474 and 3473 shall also be submitted in addition to those prepared in Unifomat II. The final estimate shall be certified on GSA form 1787. All cost estimates shall be submitted to GSA and the US Courts. The number of paper and electronic copies required are listed in Section K for each design phase submission. The estimates shall be submitted no later than one week after the submission of all other documents in each respective design phase. This will allow the cost estimating consultant time to prepare a more complete and accurate estimate from the completed submission documents for each design phase. All estimates shall be escalated to the mid-point of construction. The design contingencies in the estimate shall not exceed 10% for the pre-design survey/concept and design development submissions. It shall not exceed 5% for the 50% construction documents submission and shall drop to 0% for the 100 % construction document submission.

**H.1.6 CALCULATIONS** All calculations submitted to GSA and the US Courts shall be either manual and/or computer based in either the Microsoft Word or Excel for Windows file formats (latest release). The accompanying narrative with these calculations shall be in Microsoft Word for Windows file format. The number of copies required, both paper and electronic, are listed for each design phase submission later in this document.

**H.1.7 FINAL CERTIFICATIONS** Certification documents shall be prepared and submitted as part of the final submission for each bid package to GSA and the US Courts.

**H.1.7.1 Energy Conservation Certification** The A-E shall certify that the project was designed and is in compliance with ASRAE 90.1 (latest version) and it meets all GSA Energy Goals. This certification shall be submitted to GSA and the US Courts.

**H.1.7.2 Recycled Content Construction Materials Certification** The A-E shall certify that recycled content construction products have been included in the drawings and specifications for this project in compliance with the requirements of the GSA Affirmative Procurement program. This certification shall be submitted to GSA and the US Courts.

**H.1.7.3 LEED Certification** The A-E shall submit certification from the USGBC that the design meets the LEED goals set for this project. This certification shall be submitted to GSA and the US Courts.

**H.1.7.4 Historic Preservation (NYSHPO) Certification** The A-E shall certify that the design meets all the requirements of the National Historic Preservation Act and be a signatory on any memorandum of agreement (MOA) with the New York State Historic Preservation Office (NYSHPO). The NYSHPO is located in the New York State Office of Parks, Recreation and Historic Preservation. This certification shall be submitted to GSA and the US Courts.

**H.1.7.5 Accessibility Certification** The A-E shall certify that all locations where accessibility issues have been addressed in the project are in compliance with Federal Standard 795, the Uniform Federal Accessibility Standards (UFAS), or with the Americans with Disabilities Act (ADA Title III/ 42 USC 4151) wherever ADA requirements are more stringent than UFAS. This certification shall be submitted to GSA and the US Courts.

**H.1.7.6 Hazardous Materials Certification** The A-E shall certify that the project documents have been prepared in compliance with all applicable rules and regulations concerning hazardous materials. This certification shall be submitted to GSA and the US Courts.

**H.1.7.7 Professional Responsibility Statement** The professional responsibility statement is the final project certification submitted by the A-E when presenting the final contract documents to GSA and the US Courts. It is sometimes identified as the Transmittal Statement of Professional Responsibility. A sample copy of this document will be provided at the appropriate time. In this document, the project is precisely identified and the A-E certifies that the final documents are accurate, complete and designed in accordance with all applicable laws and regulations. All the structural load data used in the projects design are listed. All the design factors for the MEP systems are listed and all the final calculations submitted for the MEP systems are referenced. This certification shall be submitted to GSA and the US Courts.

## **I.1 There is no "I "designation in this index**

## **J – DESIGN SCHEDULES**

**J.1 DESIGN SCHEDULES** The scope of work for this project is divided into three separate bid packages which shall be designed according to the schedules listed below. GSA anticipates that the design work for all three bid packages will start concurrently when the A-E contract is awarded. However, the starting date for design of the **MEP / Interior Construction** package is subject to change based on input from the selected A-E firm. A kick-off meeting will be scheduled with GSA, the A/E, its consultants and the US Courts after the selection of the A/E firm. GSA and the US Courts will discuss the scheduling of the design work for the three bid packages with the A-E team and make any adjustments necessary to the master GSA project schedule. The intent of this packaging is to complete a substantial amount of the bulk demolition removal work in the Thurgood Marshall US Courthouse before finalizing the design of the **MEP/Interior Construction** package. The A-E shall incorporate a phasing schedule for the demolition bid package to aid the MEP

**J -- DESIGN SCHEDULES (Changes in Italics)**

**J.1 DESIGN SCHEDULES** The scope of work for this project is divided into three separate bid packages, which shall be designed according to the schedules listed below. GSA anticipates that the design work for the three bid packages will start as indicated in the following schedules. The intent of this packaging is to complete a substantial amount of the bulk demolition removal work in the Thurgood Marshall US Courthouse before finalizing the design of the **MEP/Interior Construction** package. The A-E shall incorporate a phasing schedule for the demolition bid package to aid the MEP designers in their work. Additional probe type demolition work may also be performed onsite as deemed necessary by the A-E and approved by GSA and the US Courts. The purpose of this methodology is to best assist the A-E team in completing the design of the **MEP/Interior Construction** package based on the most accurate visual inspection and documentation of the existing courthouse infrastructure conditions. **The goal of this project is to have "0" unforeseen conditions.**

**J.1.1 BULK DEMOLITION****Design / Construction Schedule**

*\*Design shall start 24 weeks after the A-E contract award*

<b><u>Design Phase Description</u></b>	<b><u>Weeks</u></b>	<b><u>Cumulative Weeks</u></b>
<b>Pre Design Survey / Concept submission*</b>	<b>10</b>	
<b>Review by GSA / CM / US Courts</b>	<b>4</b>	<b>14</b>
<b>NO Design Development submission for demolition</b>	<b>0</b>	
<b>Construction Documents 50% submission</b>	<b>8</b>	<b>22</b>
<b>Review by GSA / CM / US Courts</b>	<b>4</b>	<b>26</b>
<b>Construction Documents 100% submission</b>	<b>8</b>	<b>34</b>
<b>Review by GSA / CM / US Courts</b>	<b>4</b>	<b>38</b>
<b>Construction Documents Final submission</b>	<b>3</b>	<b>41</b>
<b>TOTAL WEEKS FOR DESIGN COMPLETION</b>	<b>41</b>	<b>41</b>
<b>Conformed Drawings</b>	<b>3</b>	
<b>Post Construction Contract Services PCCS (option 3)</b>	<b>36</b>	
<b>Construction Inspection Services CIS (option 4)</b>	<b>36</b>	<b>36</b>
<b>As Built Documents (option 5)</b>	<b>36</b>	
<b>A-E Monthly Site Visits (option 6)</b>	<b>36</b>	<b>36</b>
<b>TOTAL WEEKS FOR DEMOLITION</b>	<b>36</b>	

**J.1.2 EXTERIOR CLOSURE****Design / Construction Schedule**

*\*Design shall start upon the A-E contract award*

<b><u>Design Phase Description</u></b>	<b><u>Weeks</u></b>	<b><u>Cumulative Weeks</u></b>
<b>Pre Design Survey / Concept submission*</b>	<b>10</b>	
<b>Review by GSA / CM / US Courts</b>	<b>4</b>	<b>14</b>

Design Development submission	6	20
Review by GSA / CM / US Courts	4	24
Construction Documents 50% submission	7	31
Review by GSA / CM / US Courts	4	35
Construction Documents 100% submission	7	42
Review by GSA / CM / US Courts	4	46
Construction Documents Final submission	3	49
<b>TOTAL WEEKS FOR COMPLETION</b>	<b>49</b>	<b>9</b>
Conformed Drawings	4	
Post Construction Contract Services PCCS (option 3)	59	
Construction Inspection Services CIS (option 4)	59	59
As Built Documents (option 5)	59	
A-E Monthly Site Visits (option 6)	59	59
<b>TOTAL WEEKS FOR CONSTRUCTION</b>	<b>59</b>	

### J.1.3 MEP & INTERIOR CONSTRUCTION Schedule

### Design/Construction

\*Design shall start upon the A-E contract award

<u>Design Phase Description</u>	<u>Weeks</u>	<u>Cumulative Weeks</u>
Pre Design Survey / Concept submission*	20	
Review by GSA / CM / US Courts	4	24
Design Development submission	22	46
Review by GSA / CM / US Courts	4	50
Construction Documents 50% submission	28	78
Review by GSA / CM / US Courts	4	82
Construction documents 100% submission	26	108
Review by GSA / CM / US Courts	4	112
Construction Documents Final submission	9	121
<b>TOTAL WEEKS FOR DESIGN COMPLETION</b>	<b>121</b>	<b>121</b>
Conformed Drawings	4	
Post Construction Contract Services PCCS (option 3)	121	
Construction Inspection Services CIS (option 4)	121	121
As Built Documents (option 5)	121	
A-E Monthly Site Visits (option 6)	121	121
<b>TOTAL WEEKS FOR CONSTRUCTION</b>	<b>121</b>	

designers in their work. Additional probe type demolition work may also be performed onsite as deemed necessary by the A-E and approved by GSA and the US Courts. The purpose of this methodology is to best assist the A-E team in completing the design of the **MEP/Interior Construction** package based on the most accurate visual inspection and documentation of the existing courthouse infrastructure conditions. **The goal of this project is to have "0" unforeseen conditions.**

**J.1.1 BULK DEMOLITION****Design / Construction Schedule**

<b>Design Phase Description</b>	<b>Weeks</b>	<b>Cumulative Weeks</b>
<b>Pre Design Survey / Concept submission</b>	<b>10</b>	
<b>Review by GSA / CM / US Courts</b>	<b>4</b>	<b>14</b>
<b>NO Design Development submission for demolition</b>	<b>0</b>	
<b>Construction Documents 50% submission</b>	<b>8</b>	<b>22</b>
<b>Review by GSA / CM / US Courts</b>	<b>4</b>	<b>26</b>
<b>Construction Documents 100% submission</b>	<b>8</b>	<b>34</b>
<b>Review by GSA / CM / US Courts</b>	<b>4</b>	<b>38</b>
<b>Construction Documents Final submission</b>	<b>3</b>	<b>41</b>
<b>TOTAL WEEKS FOR DESIGN COMPLETION</b>	<b>41</b>	<b>41</b>
<b>Conformed Drawings</b>	<b>3</b>	
<b>Post Construction Contract Services PCCS (option 3)</b>	<b>36</b>	
<b>Construction Inspection Services CIS (option 4)</b>	<b>36</b>	<b>36</b>
<b>As Built Documents (option 5) * as required</b>	<b>*</b>	
<b>A-E Monthly Site Visits (option 6)</b>	<b>36</b>	<b>36</b>
<b>TOTAL WEEKS FOR DEMOLITION</b>	<b>36</b>	

**J.1.2 EXTERIOR CLOSURE****Design / Construction Schedule**

<b>Design Phase Description</b>	<b>Weeks</b>	<b>Cumulative Weeks</b>
<b>Pre Design Survey / Concept submission</b>	<b>10</b>	
<b>Review by GSA / CM / US Courts</b>	<b>4</b>	<b>14</b>
<b>Design Development submission</b>	<b>6</b>	<b>20</b>
<b>Review by GSA / CM / US Courts</b>	<b>4</b>	<b>24</b>
<b>Construction Documents 50% submission</b>	<b>7</b>	<b>31</b>
<b>Review by GSA / CM / US Courts</b>	<b>4</b>	<b>35</b>
<b>Construction Documents 100% submission</b>	<b>7</b>	<b>42</b>
<b>Review by GSA / CM / US Courts</b>	<b>4</b>	<b>46</b>
<b>Construction Documents Final submission</b>	<b>3</b>	<b>49</b>
<b>TOTAL WEEKS FOR COMPLETION</b>	<b>49</b>	<b>9</b>
<b>Conformed Drawings</b>	<b>4</b>	

<b>Post Construction Contract Services PCCS (option 3)</b>	<b>59</b>	
<b>Construction Inspection Services CIS (option 4)</b>	<b>59</b>	<b>59</b>
<b>As Built Documents (option 5) * as required</b>	<b>*</b>	
<b>A-E Monthly Site Visits (option 6)</b>	<b>59</b>	<b>59</b>
<b>TOTAL WEEKS FOR CONSTRUCTION</b>	<b>59</b>	

### **J.1.3 MEP & INTERIOR CONSTRUCTION Design/Construction Schedule**

<b>Design Phase Description</b>	<b>Weeks</b>	<b>Cumulative Weeks</b>
<b>Pre Design Survey / Concept submission</b>	<b>16</b>	
<b>Review by GSA / CM / US Courts</b>	<b>4</b>	<b>20</b>
<b>Design Development submission</b>	<b>24</b>	<b>44</b>
<b>Review by GSA / CM / US Courts</b>	<b>4</b>	<b>48</b>
<b>Construction Documents 50% submission</b>	<b>30</b>	<b>78</b>
<b>Review by GSA / CM / US Courts</b>	<b>4</b>	<b>82</b>
<b>Construction documents 100% submission</b>	<b>26</b>	<b>108</b>
<b>Review by GSA / CM / US Courts</b>	<b>4</b>	<b>112</b>
<b>Construction Documents Final submission</b>	<b>9</b>	<b>121</b>
<b>TOTAL WEEKS FOR DESIGN COMPLETION</b>	<b>121</b>	<b>121</b>
<b>Conformed Drawings</b>	<b>4</b>	
<b>Post Construction Contract Services PCCS (option 3)</b>	<b>121</b>	
<b>Construction Inspection Services CIS (option 4)</b>	<b>121</b>	<b>121</b>
<b>As Built Documents (option 5) * as required</b>	<b>*</b>	
<b>A-E Monthly Site Visits (option 6)</b>	<b>121</b>	<b>121</b>
<b>TOTAL WEEKS FOR CONSTRUCTION</b>	<b>121</b>	

**Note:** The design and construction schedule for the **MEP/Interior Construction** Package will be further developed in a joint meeting between GSA, the US Courts and the A/E Team shortly after the A/E selection has been announced. The schedule listed above is to be used as the starting point for the discussion.

### **K - DESIGN PHASE SERVICES by PHASE**

The design phase services start upon A-E contract award.

**K.1. BULK DEMOLITION DESIGN PHASE** The Bulk Demolition design phase will commence according to the design schedule after the A-E contract notice to proceed has been issued by the CO. The A-E shall submit a detailed schedule of the work in this phase to GSA and the US Courts within one week after the notice to proceed is issued. The Bulk Demolition work items for this phase are listed in the major work items referenced in Section A.2.

### **K.1.1. PRE DESIGN SURVEY / CONCEPT PHASE for BULK DEMOLITION**

**K.1.1.1. Pre Design Survey / Concept Narrative Report** The narrative report shall be prepared according to the requirements listed in the GSA Facilities Standards PBS P-100. The Pre Design Survey work for all three bid packages shall occur concurrently at the start of this project. This narrative report shall be based on the entire scope of work listed in the Major Work Items (paragraph A-2), the previous studies of the Thurgood Marshall US Courthouse (available as references) and the field investigation of the Courthouse by the A-E and their consultants. The report shall describe the A-E's proposed solution for the three bid packages for this entire project. It shall describe the design intent of the A-E's concept for each bid package and how it meets the government's program requirements for the Courthouse. The report shall also include a discussion of the HVAC design alternative schemes (minimum of three-see Section K.3.1), the A-E's recommendations and HVAC concept selection. The report shall be used to prepare the concept for each of the three bid packages and it will serve as a record of the A-E's overall solution for the work in each bid package. The report shall be submitted to GSA and the US Courts as detailed in K.1.1.5.

**K.1.1.2 Pre Design Survey / Concept Other Reports** The other reports include the submission prepared for the New York State Historic Preservation Office, the Design Requirements Compliance report, the LEED report, the Construction Waste Management report, the Hazardous Materials report, any reports of Design Excellence or Construction Excellence peer reviews and all other reports created. The reports shall be submitted to GSA and the US Courts as detailed in K.1.1.5.

**K.1.1.3 Pre Design Survey / Concept Drawings** The drawings shall be prepared according to the requirements listed in the GSA Facilities Standards PBS P-100. These drawings shall show the scope of work to be accomplished in this bid package. The floor plans shall indicate the courthouse's layout and the connections to the Daniel Patrick Moynihan U. S. Courthouse and the Metropolitan Correction Center and the Silvio J. Mallo Federal Office Building. The drawings shall be submitted to GSA and the US Courts as detailed in K.1.1.5.

**K.1.1.4 Pre Design Survey / Concept Cost Estimate** The cost estimate shall be prepared with the level of detail at Uniformat II level 3 in accordance with Sections E.1.4 and H.1.5. The design contingency shall be limited to 10% and the estimate shall be escalated to the midpoint of construction. If the estimate exceeds the budget allowance (ECCA) for this portion of the project, the A-E shall propose cost savings to bring the project within the budget. Additionally, the A-E shall provide separate cost estimates broken out by shell/tenant improvements and "above-standard" costs for the US Courts and US Marshals Service. The A-E shall provide GSA forms 3474 (level 2) and 3473 (level 3) with the estimate to GSA and the US Courts as detailed in K.1.1.5.

**K.1.1.5 Pre Design Survey / Concept Submittals for BULK DEMOLITION**  
**(#) number of copies included for the US Courts**

Type of submittal	submittal size	quantities
Pre Design Survey/Concept Narrative report	8.5" x 11"	19 (5)
All other Reports	8.5" x 11"	19 (5)
Drawings, prints, complete set	Full size	10 (5)
Drawings, prints, complete set	Half size	19 (1)
Cost Estimates	8.5" x 11"	10 (5)
All Reports/cost estimate	CD-ROM	3 (1)

**K.1.2 DESIGN DEVELOPMENT PHASE for BULK DEMOLITION**

There is NO Design Development Phase for BULK DEMOLITION.

**K.1.3 50% CONSTRUCTION DOCUMENTS PHASE for BULK DEMOLITION**

**K.1.3.1 Notice to Proceed into the 50% Construction Documents phase** Following the acceptance and approval of the Pre Design Survey / Concept submission and upon receipt of notice to proceed, work on the 50% Construction Documents phase will commence. There will be no design development phase for the Bulk Demolition bid package. The function of this submission is to expand the approved design into construction documents. These construction documents shall be prepared as per the requirements listed in the GSA Facilities Standards PBS P-100. These construction documents shall show correct dimensions and building information in sufficient detail to allow verification of the material quantities and costs for a UNIFORMAT level 5 cost estimate.

**K.1.3.2 50% Construction Documents Progress Check** The A-E shall determine when the construction documents are 50% complete and notify the CO. In response, a 50% progress check will then be made by GSA, the US Courts and the CM. This check will be made in the A-E's office to determine that satisfactory progress and coordination is being achieved and that the previously approved submission is being accurately followed with no unauthorized changes. If the progress check is satisfactory then the A-E shall submit the 50% construction documents submittal to GSA and the US Courts for review. The A-E shall continue with work on the construction documents during this progress check.

**K.1.3.3 50% Construction Documents Narrative Report** This narrative report shall be prepared according to the requirements listed in the GSA Facilities Standards PBS P-100. It shall expand on material presented in the previous report. It shall reflect the further development and evolution of this portion of the project's design and incorporate the government's comments generated from all parties after their review of the previous submission. The report shall be submitted to GSA and the US Courts as detailed in K.1.3.8.



**K.1.3.4 50% Construction Documents Other Reports** The other reports include the submission prepared for the New York State Historic Preservation Office (NYSHPO), any reply to previous NYSHPO submittals, the Design Requirements Compliance report, the LEED report, the Construction Waste Management report, the Hazardous Materials report, any Life Cycle Cost Analysis reports, the Value Engineering Workshop Incorporation report, any reports for the Design Excellence and Construction Excellence programs and all other reports created. The reports shall be submitted to GSA and the US Courts as detailed in K.1.3.8.

**K.1.3.5 50% Construction Documents Drawings** The 50% construction documents drawings shall be prepared according to the requirements listed in the GSA Facilities Standards PBS P-100. These drawings shall clearly show the scope of the demolition work to be provided in this bid package. These drawings shall incorporate all of the government's comments and corrections from the previous submission. The drawings shall be prepared on GSA standard size sheets with the title block in accordance with GSA standards. GSA will provide the standard information required for the title block. The drawings shall be submitted to GSA and the US Courts as detailed in K.1.3.8.

**K.1.3.6 50% Construction Documents Specifications** The 50% construction documents specifications shall be prepared in draft form according to the requirements listed in the GSA Facilities Standards PBS P-100. Each draft specification section shall be clearly marked to show deletions and additions. Each completed specification section shall be clearly marked as such. Begin to prepare the specifications index and drawings list that will be included in the construction solicitation. The A-E shall block out the complete structure of the final specification volumes as they will be prepared for the construction solicitation including the index of sections and drawing listing. The specifications shall be submitted to GSA and the US Courts as detailed in K.1.3.8.

**K.1.3.7 50% Construction Document Cost Estimate** The cost estimate shall be prepared with the level of detail at Uniformat II level 4 in accordance with Sections E.1.4 and H.1.5. The estimate shall incorporate all of the government's comments/corrections from the previous submission and from the independent estimate review. The design contingency shall be limited to 5% and the estimate shall be escalated to the midpoint of construction. If the estimate exceeds the budget allowance (ECCA) for this portion of the project, the A-E shall propose cost saving ideas to bring the project within the budget. Additionally, the A-E shall provide separate cost estimates broken out by shell/tenant improvements and "above-standard" costs for the US Courts and US Marshals Service. The A-E shall provide GSA forms 3474 (level 2) and 3473 (level 3) with the estimate to GSA and the US Courts as detailed in K.1.3.8.

**K.1.3.8 50 % Construction Documents Submittals for BULK DEMOLITION**  
 (#) number of copies included for the US Courts

Type of submittal	submittal size	Quantities
50% Construction Documents narrative report	8.5" x 11"	19 (5)
All other reports	8.5" x 11"	19 (5)
Drawings, prints, complete set	Full size	10 (5)
Drawings, prints, complete set	Half size	19 (1)
Specifications	8.5" x 11"	16 (3)
Cost Estimate	8.5" x 11"	10 (5)
Drawings (complete set) DWG.format	AutoCAD CD-ROM	3 (1)
Plot files, DWF. format, HPGL2 compatible	AutoCAD CD-ROM	3 (1)
All reports/specifications/cost estimate	CD-ROM	3 (1)

**K.1.4 100% CONSTRUCTION DOCUMENTS PHASE for BULK DEMOLITION**

**K.1.4.1 Notice to Proceed into the 100% Construction Documents Phase** Following the acceptance and approval of the 50% Construction Documents submission and upon receipt of notice to proceed from the CO, work on the 100% Construction Documents submission will commence. The function of this submission is to complete the preparation of the construction documents into their final state and to allow verification of the cost estimate.

**K.1.4.2 100% Construction Documents Narrative Report** This narrative report shall be prepared according to the requirements listed in the GSA Facilities Standards PBS P-100. It shall expand on material presented in the 50% Construction Document report. It shall reflect the final development and design of the project and incorporate the government's comments generated from all parties after their review of the previous submission. The report shall be submitted to GSA and the US Courts as detailed in K.1.4.7.

**K.1.4.3 100% Construction Documents Other Reports** The other reports include any submission prepared for the New York State Historic Preservation Office (NYSHPO), any reply to previous NYSHPO submittals, the Design Requirements Compliance report, the LEED report, the Construction Waste Management report, the Hazardous Materials report, any Life Cycle Cost Analysis reports, the Value Engineering Workshop Incorporation report, any reports for the Design Excellence and Construction Excellence programs and all other reports created. The reports shall be submitted to GSA and the US Courts as detailed in K.1.4.7.

**K.1.4.4 100% Construction Documents Drawings** The 100% construction documents drawings shall be prepared according to the requirements listed in the GSA Facility Standards PBS P-100. These drawings shall show the final development and design of the drawings portion of this bid package. These drawings shall incorporate all of the government's comments and corrections from the previous submission. The drawings shall be submitted to GSA and the US Courts as detailed in K.1.4.7.

**K.1.4.5 100% Construction Document Specifications** The 100% construction document specifications shall be prepared according to the requirements listed in the GSA Facilities Standards PBS P-100. These specifications shall show the final development of the specifications, the specifications index and drawings list for inclusion in the construction solicitation. These specifications shall incorporate all of the government's comments and corrections from the previous submission. The specifications shall be submitted to GSA and the US Courts as detailed in K.1.4.7.

**K.1.4.6 100% Construction Documents Cost Estimate** The cost estimate shall be prepared with the level of detail at Uniformat II level 4 in accordance with Sections E.1.4 and H.1.5. This estimate shall show the construction cost figure that the A-E anticipates GSA will receive from the project bidders. The estimate shall incorporate all of the government's comments/corrections from the previous submission and from the independent estimate review. The design contingency shall be limited to 0% and the estimate shall be escalated to the midpoint of construction. If the estimate exceeds the budget allowance (ECCA) for this portion of the project, the A-E shall propose cost saving ideas to bring the project within the budget. Additionally, the A-E shall provide separate cost estimates broken out by shell/tenant improvements and "above-standard" costs for the US Courts and US Marshals Service. The A-E shall provide GSA forms 3474 (level 2) and 3473 (level 3) with the estimate to GSA and the US Courts as detailed in K.1.4.7.

**K.1.4.7 100 % Construction Documents Submittals for BULK DEMOLITION**  
 (#) number of copies included for the US Courts

Type of submittal	submittal size	quantities
100% Construction Documents narrative report	8.5" x 11"	19 (5)
All other reports	8.5" x 11"	19 (5)
Drawings, prints, complete set	Full size	10 (5)
Drawings, prints, complete set	Half size	19 (1)
Specifications	8.5" x 11"	16 (3)
Cost Estimate	8.5" x 11"	10 (5)
Drawings (complete set) DWG. format	AutoCAD CD-ROM	3 (1)
Plot files, DWF. format, HPGL2 compatible	AutoCAD CD-ROM	3 (1)
All reports/specifications/cost estimate	CD-ROM	3 (1)

**K.1.5 FINAL CONSTRUCTION DOCUMENTS PHASE for BULK DEMOLITION**

**K. 1.5.1 Final Construction Documents Submission** This submission shall consist of a complete and coordinated set of reports, certifications, drawings, specifications, schedules, and a final cost estimate. This submission is to incorporate all of the government's comments and corrections generated in the review of the 100% construction documents and the independent estimate review. Submit all documents to GSA and the US Courts in the quantities and formats listed in the Final Construction documents submission chart as detailed in K.1.5.9.

**K.1.5.2 Final Construction Documents Narrative report** This report shall be prepared according to the requirements listed in the GSA Facilities standards PBS P-100. It shall expand on material included in the 100% construction documents report. It shall reflect the final pre bid development of the project and incorporate all government comments from the previous submission. The report shall be submitted to GSA and the US Courts as detailed in K.1.5.9.

**K.1.5.3 Final Construction Documents Other Reports** The final other reports include the, NYSHPO report, the Design Requirements Compliance report, the LEED Certification report, the Construction Waste Management report, the Hazardous Materials report, the Life Cycle Cost Analysis reports, the Value Engineering Workshop Incorporation report, reports for the Design Excellence and Construction Excellence programs and all other reports. Submit final corrected copies of these reports to GSA and the US Courts in the quantities and types listed in the Final Documents submission chart, K.1.5.9..

**K.1.5.4 Final Construction Documents Drawings** The final drawings shall consist of sets of the final corrected copies of the 100% construction document drawings including the government's comments. The drawings shall be submitted to GSA and the US Courts in the quantities and types listed in the Final Documents submission chart, K.1.5.9.

**K.1.5.5 Final Construction Documents Specifications** The final specifications shall consist of sets of the final corrected copies of the 100% construction document specifications including the government's comments. The specifications shall be submitted to GSA and the US Courts in the quantities and types listed in the Final Documents submission chart, K.1.5.9.

**K.1.5.6 Final Construction Documents Cost Estimate** The cost estimate shall be prepared with the level of detail at Unifomat II level 4 in accordance with Sections E.1.4 and H.1.5. If the Unifomat II format is used for the detailed back-up estimate rather than the CSI format, an additional back-up estimate shall be prepared using the CSI format. The estimate shall show the final pre-bid construction cost in accordance with the design, including all of the government's comments/corrections generated in the review of the 100% construction documents estimate submission and the independent estimate review. There shall be no design contingency in the estimate and the estimate shall be escalated to the midpoint of construction. Additionally, the A-E shall provide separate cost estimates broken out by shell/tenant improvements and "above-standard" costs for the US Courts and US Marshals Service. The A-E shall provide GSA forms 3474 (level 2) and 3473 (level 3) as well as GSA form 1787 with the estimate. CSI format summaries equivalent to GSA forms 3474 and 3473 shall also be submitted in addition to those prepared in Unifomat II. The cost estimate shall be submitted to GSA and the US Courts in the quantities and types listed in the Final Documents submission chart, K.1.5.9.

**K.1.5.7 Not used.**

**K.1.5.8 Final Construction Documents Final Certifications** The A-E shall provide documents for certifications for the Energy Conservation Certification, the Recycled

**Content Construction Materials Certification**, the **LEED Certification**, the **Historic Preservation (SHPO) Certification**, the **Accessibility Certification (for specific areas)**, the **Hazardous Materials Certification**, and the **Professional Responsibility Statement** as listed in the final documents submission chart, K.1.5.9 to be submitted to GSA and the US Courts.

**K.1.5.9 Final Construction Documents Submittals for BULK DEMOLITION**  
**(#) number of copies included for the US Courts**

Type of submittal	submittal size	quantities
Final Construction Documents narrative report	8.5" x 11"	8 (5)
All other reports, final version, Design Compliance, LEED, SHPO, etc.	8.5" x 11"	8 (5)
Drawings, final version, complete set, prints	Full size	7 (5)
Drawings, final version, complete set, prints	Half size	7 (1)
Specifications, final versions	8.5" x 11"	8 (5)
Specifications, final print ready originals	8.5" x 11"	one (1) set
Cost Estimate, final w/ GSA form 1787 certified	8.5" x 11"	8 (5)
All reports, final version	CD-ROM	4 (1)
Specifications, final version	CD-ROM	3 (1)
Cost estimate, final w/ GSA form 1787 certified	CD-ROM	3 (1)
Drawings, final version, complete set, (DWG. format)	AutoCAD CD-ROM	4 (1)
Drawings, final version, MYLAR originals	Full size	one (1) set
Plot files, DWF format, HPGL2 compatible	AutoCAD CD-ROM	4 (1)
Final Certifications	8.5" x 11"	2 (1)
Professional Responsibility Statement	8.5" x 11"	2 (1)

**K.1.6 CONFORMED CONSTRUCTION DOCUMENTS for BULK DEMOLITION**

**K.1.6.1 Conformed Construction Documents Submission** This submission will consist of a set of all the contract documents revised to include all amendments issued subsequent to the release of the bid set up to the construction contract award. Submit the documents to GSA and the US Courts in the quantities and formats listed in the Conformed Construction documents submission chart as detailed in K.1.6.2..

**K.1.6.2 Conformed Const. Documents Submittals for BULK DEMOLITION**  
**(#) number of copies included for the US Courts**

Type of submittal	submittal size	quantities
Drawings, prints, complete set	Full size	5 (3)
Drawings, prints, complete set	Half size	10 (1)
Specifications, complete set	8.5" x 11"	5 (3)
Specifications	CD-ROM	3 (1)

Drawings, conformed version, MYLAR originals (only required for actual revised drawings)	Full size	One(1)Each*
Drawings (complete set) DWG. format	AutoCAD CD-ROM	3 (1)
Plot files, DWF. format, HPGL2 compatible	AutoCAD CD-ROM	3 (1)

\* New MYLAR originals are only required if a given drawing contains revisions.

Unrevised drawings do not require new MYLAR originals

**K.2 EXTERIOR CLOSURE DESIGN PHASE** The Exterior Closure design phase will commence according to the design schedule after the A-E contract notice to proceed has been issued by the CO. The A-E shall submit a detailed schedule of the work in this phase to GSA and the US Courts within one week after the notice to proceed is issued. The Exterior Closure work items for this phase are listed in the major work items referenced in Section A.2.

### **K.2.1 PRE DESIGN SURVEY / CONCEPT PHASE for EXTERIOR CLOSURE**

**K.2.1.1 Pre Design Survey / Concept Narrative Report** This narrative report was prepared for all three phases of this project concurrently. It was prepared according to the requirements listed in the GSA Facilities Standards PBS P-100. Use this report to prepare the concept for the Exterior Closure bid package. Read the paragraph K.1.1.1 for further details. This report describes the design intent of the A-E's concept and how it meets the government's program requirements for the Thurgood Marshall US Courthouse. The report serves as a record of the A-E's concept selections and recommendations for this phase.

**K.2.1.2 Pre Design Survey /Concept Other Reports** The other reports include the submission prepared for the New York State Historic Preservation Office, the Design Requirements Compliance report, the LEED report, the Construction Waste Management report, the Hazardous Materials report, any reports of Design Excellence or Construction Excellence peer reviews and all other reports created. The reports shall be submitted to GSA and the US Courts as detailed in K.2.1.5.

**K.2.1.3 Pre Design Survey /Concept Drawings** The drawings shall be prepared according to the requirements listed in the GSA Facilities Standards PBS P-100. These drawings shall show the scope of work to be accomplished in this bid package. The floor plans shall indicate the courthouse's layout and the connections to the Daniel Patrick Moynihan U. S. Courthouse and the Metropolitan Correction Center and the Silvio J. Mallo Federal Office Building. The drawings shall be submitted to GSA and the US Courts as detailed in K.2.1.5.

**K.2.1.4 Pre Design Survey / Concept Cost Estimate** The cost estimate shall be prepared with the level of detail at Uniformat II level 3 in accordance with Sections E.1.4 and H.1.5. The design contingency shall be limited to 10% and the estimate shall be escalated to the midpoint of construction. If the estimate exceeds the budget allowance (ECCA) for this portion of the project, the A-E shall propose cost savings to bring the project within the budget. Additionally, the A-E shall provide separate cost estimates broken out by shell/tenant improvements and "above-standard" costs for the US Courts and US Marshals

Service. The A-E shall provide GSA forms 3474 (level 2) and 3473 (level 3) with the estimate to GSA and the US Courts as detailed in K.2.1.5.

**K.2.1.5 Pre Design Survey / Concept Submittals for EXTERIOR CLOSURE**  
**(#) number of copies included for the US Courts**

Type of submittal	submittal size	quantities
Pre Design Survey / Concept narrative report	8.5" x 11"	19 (5)
All other reports	8.5"x11"	19 (5)
Drawings, prints, complete set	Full size	10 (5)
Drawings, prints, complete set	Half size	19 (1)
Cost Estimates	8.5" x 11"	10 (5)
All reports/cost estimate	CD-ROM	3 (1)

**K.2.2 DESIGN DEVELOPMENT PHASE for EXTERIOR CLOSURE**

**K.2.2.1 Notice to Proceed into the Design Development phase** Following the acceptance and approval of the Pre Design Survey / Concept submission and upon receipt of notice to proceed by the CO, work on the Design Development submission will commence. The function of this submission is to expand the approved basic design into a comprehensive and definitive presentation of the project scope of work. It will outline work to be included in the Construction documents, establish essentially correct dimensions, and show sufficient detail to allow verification of the material quantities and costs per the GSA Estimating handbook, for a UNIFORMAT level 5 cost estimate.

**K.2.2.2 Design Development Narrative Report** This narrative report shall be prepared according to the requirements listed in the GSA Facilities Standards PBS P-100. It shall expand on material presented in the Pre Design Survey/Concept report. It shall be based on the scope of work for the project, reflect the further development and evolution of this portion of the project's design and incorporate the government's comments generated from all parties after their review of the previous submission. The report shall be submitted to GSA and the US Courts as detailed in K.2.2.7.

**K.2.2.3 Design Development Other Reports** The other reports include the submission prepared for the New York State Historic Preservation Office (NYSHPO), any reply to previous NYSHPO submittals, the Design Requirements Compliance report, the LEED report, the Construction Waste Management report, the Hazardous Materials report, the Life Cycle Cost Analysis reports, the Value Engineering Workshop Incorporation report, any reports for the Design Excellence and Construction Excellence programs and all other reports created. The reports shall be submitted to GSA and the US Courts as detailed in K.2.2.7.

**K.2.2.4 Design Development Drawings** The design development drawings shall be prepared according to the requirements listed in the GSA Facilities Standards PBS P-100. These drawings shall clearly show the scope of the Exterior Closure work in this bid package and incorporate all of the government's comments and corrections from the previous submission. These drawings shall be prepared on GSA standard sized sheets with the title

block in accordance with GSA standards. GSA will provide the standard information required for the title block. The drawings shall be submitted to GSA and the US Courts as detailed in K.2.2.7.

**K.2.2.5 Design Development Specifications** The Design Development specifications shall be prepared in draft form according to the requirements listed in the GSA Facilities Standards PBS P-100. Each draft specification shall be clearly marked to show the deletions and additions. Each completed specification section shall be clearly marked as such. Begin to prepare the specifications index and drawings list that will be included in the construction solicitation. The specifications shall be submitted to GSA and the US Courts as detailed in K.2.2.7.

**K.2.2.6 Design Development Cost Estimate** The cost estimate shall be prepared with the level of detail at Uniformat II level 4 in accordance with Sections E.1.4 and H.1.5. The estimate shall incorporate all of the government's comments/corrections from the previous submission and from the independent estimate review. The design contingency shall be limited to 10% and the estimate shall be escalated to the midpoint of construction. If the estimate exceeds the budget allowance (ECCA) for this portion of the project, the A-E shall propose cost savings to bring the project within the budget. Additionally, the A-E shall provide separate cost estimates broken out by shell/tenant improvements and "above-standard" costs for the US Courts and US Marshals Service. The A-E shall provide GSA forms 3474 (level 2) and 3473 (level 3) with the estimate to GSA and the US Courts as detailed in K.2.2.7.

**K.2.2.7 Design Development Submittals for EXTERIOR CLOSURE**  
**(#) number of copies included for the US Courts**

Type of submittal	submittal size	quantities
Design Development narrative report	8.5" x 11"	19 (5)
All other reports	8.5"x11"	19 (5)
Drawings, prints, complete set	Full size	10 (5)
Drawings, prints, complete set	Half size	19 (1)
Specifications	8.5" x 11"	16 (3)
Cost Estimate	8.5" x 11"	10 (5)
All reports / specifications/cost estimate	CD-ROM	3 (1)
Drawings (complete set) DWG. format	AutoCAD CD-ROM	3 (1)
Plot files DWF. Format, HPGL2 compatible	AutoCAD CD-ROM	3 (1)

**K.2.3 50% CONSTRUCTION DOCUMENTS PHASE for EXTERIOR CLOSURE**

**K.2.3.1 Notice to Proceed into the 50% Construction Documents phase** Following the acceptance and approval of the Design Development submission and upon receipt of notice to proceed from the CO, work on the 50% Construction Documents phase will commence. The function of this submission is to expand the approved design into construction documents. These construction documents shall be prepared as per the requirements listed in the GSA Facility Standards PBS P-100. These construction documents shall show correct



dimensions and building information in sufficient detail to allow verification of the material quantities and costs for a UNIFORMAT level 5 cost estimate.

**K.2.3.2 50% Construction Documents Progress Check** The A-E shall determine when the construction documents are 50% complete and notify the CO. The 50% progress check will then be made by GSA, the US Courts and the CM. This check will be made in the A-E's office to determine that satisfactory progress and coordination is being achieved and that the previously approved submission is being accurately followed with no unauthorized changes. If the 50% progress check is satisfactory then the A-E shall submit the 50% construction documents submittal to GSA and the US Courts for review. The A-E shall continue with work on the construction documents during this progress check.

**K.2.3.3 50% Construction Documents Narrative Report** This narrative report shall be prepared according to the requirements listed in the GSA Facilities Standards PBS P-100. It shall expand on material presented in the Design Development report. It shall be based on the scope of work for the project, reflect the further development and evolution of this portion of the project's design and incorporate the government's comments and corrections generated from all parties after their review of the previous submission. The report shall be submitted to GSA and the US Courts, as detailed in K.2.3.8.

**K.2.3.4 50% Construction Documents Other Reports** The other reports include the submission prepared for the New York State Historic Preservation Office (NYSHPO), any reply to previous NYSHPO submittals, the Design Requirements Compliance report, the LEED report, the Construction Waste Management report, the Hazardous Materials report, the Life Cycle Cost Analysis report, the Value Engineering Workshop Incorporation report, any reports for the Design Excellence and Construction Excellence programs and all other reports created. These reports shall be submitted to GSA and the US Courts, as detailed in K.2.3.8.

**K.2.3.5 50% Construction Documents Drawings** The 50% construction documents drawings shall be prepared according to the requirements listed in the GSA Facilities Standards PBS P-100. These drawings shall clearly show the scope of the Exterior Closure work to be provided in this bid package. These drawings shall incorporate all of the government's comments and corrections from the previous submission. The drawings shall be prepared on GSA standard size sheets with the title block in accordance with GSA standards. GSA will provide the standard information required for the title block. The drawings shall be submitted to GSA and the US Courts as detailed in K.2.3.8.

**K.2.3.6 50% Construction Document Specifications** The A-E shall continue with the development of the specifications. Each draft specification section shall be clearly marked to show the deletions and additions. Each completed specification section shall be clear marked as such. The A-E shall block out the complete structure of the final specification volumes as they will be prepared for the construction solicitation including the index of sections and drawing listing. The specifications shall be submitted to GSA and the US Courts as detailed in K.2.3.8.

**K.2.3.7 50% Construction Document Cost Estimate** The cost estimate shall be prepared with the level of detail at Uniformat II level 4 in accordance with Sections E.1.4 and H.1.5. The estimate shall incorporate all of the government's comments/corrections from the previous submission and from the independent estimate review. The design contingency shall be limited to 5% and the estimate shall be escalated to the midpoint of construction. If the estimate exceeds the budget allowance (ECCA) for this portion of the project, the A-E shall propose cost saving ideas to bring the project within the budget. Additionally, the A-E shall provide separate cost estimates broken out by shell/tenant improvements and "above-standard" costs for the US Courts and US Marshals Service. The A-E shall provide GSA forms 3474 (level 2) and 3473 (level 3) with the estimate to GSA and the US Courts as detailed in K.2.3.8.

**K.2.3.8 50% Construction Documents Submittals for EXTERIOR CLOSURE**  
 (#) number of copies included for the US Courts

Type of submittal	submittal size	quantities
50% Construction documents narrative report	8.5" x 11"	19 (5)
All other reports	8.5"x11"	19 (5)
Drawings, prints, complete set	Full size	10 (5)
Drawings, prints, complete set	Half size	19 (1)
Specifications	8.5" x 11"	16 (3)
Cost Estimate	8.5" x 11"	10 (5)
All reports / specifications/cost estimate	CD-ROM	3 (1)
Drawings (complete set) DWG. format	AutoCAD CD-ROM	3 (1)
Plot files DWF format, HPGL2 compatible	AutoCAD CD-ROM	3 (1)

**K.2.4 100% CONSTRUCTION DOCUMENTS PHASE for EXTERIOR CLOSURE**

**K.2.4.1 Notice to Proceed into the 100% Construction Documents phase** Following the acceptance and approval of the 50% Construction Documents submission and upon receipt of notice to proceed from the CO, work on the 100% Construction Documents phase will commence. The function of this submission is to complete the preparation of the construction documents into their final state and to allow verification of the cost estimate.

**K.2.4.2 100% Construction Documents Narrative Report** This narrative report shall be prepared according to the requirements listed in the GSA Facilities Standards PBS P-100. It shall expand on material presented in the 50% Construction Documents report. It shall reflect the final development and design of the project and incorporate the government's comments generated from all parties after their review of the previous submission. The report shall be submitted to GSA and the US Courts as detailed in K.2.4.7.

**K.2.4.3 100% Construction Documents Other Reports** The other reports include any submission prepared for the New York State Historic Preservation Office (NYSHPO), any reply to previous NYSHPO submittals, the Design Requirements Compliance report, the

LEED report, the Construction Waste Management report, the Hazardous Materials report, any Life Cycle Cost Analysis reports, the Value Engineering Workshop Incorporation report, any reports for the Design Excellence and Construction Excellence programs and all other reports created. The reports shall be submitted to GSA and the US Courts as detailed in K.2.4.7.

**K.2.4.4 100% Construction Documents Drawings** The 100% construction documents drawings shall be prepared according to the requirements listed in the GSA Facility Standards PBS P-100. These drawings shall show the final development and design of the drawings portion of this bid package. These drawings shall incorporate all of the government's comments and corrections from the previous submission. The drawings shall be submitted to GSA and the US Courts as detailed in K.2.4.7.

**K.2.4.5 100% Construction Document Specifications** The 100% construction document specifications shall be prepared according to the requirements listed in the GSA Facilities Standards PBS P-100. These specifications shall show the final development of the specifications, the specifications index and drawings list for inclusion in the construction solicitation. These specifications shall incorporate all of the government's comments and corrections from the previous submission. The specifications shall be submitted to GSA and the US Courts as detailed in K.2.4.7.

**K.2.4.6 100% Construction Documents Cost Estimate** The cost estimate shall be prepared with the level of detail at Uniformat II level 4 in accordance with Sections E.1.4 and H.1.5. This estimate shall show the construction cost figure that the A-E anticipates GSA will receive from the project bidders. The estimate shall incorporate all of the government's comments/corrections from the previous submission and from the independent estimate review. The design contingency shall be limited to 0% and the estimate shall be escalated to the midpoint of construction. If the estimate exceeds the budget allowance (ECCA) for this portion of the project, the A-E shall propose cost saving ideas to bring the project within the budget. Additionally, the A-E shall provide separate cost estimates broken out by shell/tenant improvements and "above-standard" costs for the US Courts and US Marshals Service. The A-E shall provide GSA forms 3474 (level 2) and 3473 (level 3) with the estimate to GSA and the US Courts as detailed in K.2.4.7.

**K.2.4.7 100% Construction Documents Submittals for EXTERIOR CLOSURE**  
 (#) number of copies included for the US Courts

Type of submittal	submittal size	quantities
100% construction documents narrative report	8.5" x 11"	19 (5)
All other reports	8.5"x11"	19 (5)
Drawings, prints, complete set	Full size	10 (5)
Drawings, prints, complete set	Half size	19 (1)
Specifications	8.5" x 11"	16 (3)
Cost estimate	8.5" x 11"	10 (5)

All reports / specifications/cost estimate	CD-ROM	3 (1)
Drawings (complete set) DWG. format	AutoCAD CD-ROM	3 (1)
Plot files DWF format, HPGL2 compatible	AutoCAD CD-ROM	3 (1)

## **K.2.5 FINAL CONSTRUCTION DOCUMENTS PHASE for EXTERIOR CLOSURE**

**K.2.5.1 Final Construction Documents Submission** This submission shall consist of a complete and coordinated set of reports, certifications, drawings, specifications, schedules and a final cost estimate. This submission is to incorporate all of the government's comments and corrections generated in the review of the 100% construction documents and the independent estimate review. Submit all documents to GSA and the US Courts in the quantities and formats listed in the Final Construction documents submission chart as detailed in K.2.5.9.

**K.2.5.2 Final Construction Documents Narrative report** This report shall be prepared according to the requirements listed in the GSA Facilities Standards PBS P-100. It shall expand on material included in the 100% construction documents report. It shall reflect the final pre bid development of the project and incorporate all government comments from the previous submission. The report shall be submitted to GSA and the US Courts as detailed in K.2.5.9.

**K.2.5.3 Final Construction Documents Other Reports** The final other reports include the, NYSHPO report, the Design Requirements Compliance report, the LEED Certification report, the Construction Waste Management report, the Hazardous Materials report, the Life Cycle Cost Analysis reports, the Value Engineering Workshop Incorporation report, reports for the Design Excellence and Construction Excellence programs and all other reports. Submit final corrected copies of these reports to GSA and the US Courts in the quantities and types listed in the Final Documents submission chart, K.2.5.9.

**K.2.5.4 Final Construction Documents Drawings** The final drawings shall consist of sets of the final corrected copies of the 100% construction document drawings including the government's comments. The drawings shall be submitted to GSA and the US Courts in the quantities and types listed in the Final Documents submission chart, K.2.5.9.

**K.2.5.5 Final Construction Documents Specifications** The final specifications shall consist of sets of the final corrected copies of the 100% construction document specifications including the government's comments. The specifications shall be submitted to GSA and the US Courts in the quantities and types listed in the Final Documents submission chart, K.2.5.9.

**K.2.5.6 Final Construction Documents Cost Estimate** The cost estimate shall be prepared with the level of detail at Uniformat II level 4 in accordance with Sections E.1.4 and H.1.5. If the Uniformat II format is used for the detailed back-up estimate rather than the CSI format, an additional back-up estimate shall be prepared using the CSI format. The estimate shall show the final pre-bid construction cost in accordance with the design, including all of the government's comments/corrections generated in the review of the 100%

construction documents estimate submission and the independent estimate review. There shall be no design contingency in the estimate and the estimate shall be escalated to the midpoint of construction. Additionally, the A-E shall provide separate cost estimates broken out by shell/tenant improvements and "above-standard" costs for the US Courts and US Marshals Service. The A-E shall provide GSA forms 3474 (level 2) and 3473 (level 3) as well as GSA form 1787 with the estimate. CSI format summaries equivalent to GSA forms 3474 and 3473 shall also be submitted in addition to those prepared in Unifomat II. The cost estimate shall be submitted to GSA and the US Courts in the quantities and types listed in the Final Documents submission chart, K.2.5.9.

#### K.2.5.7 Not Used.

**K.2.5.8 Final Construction Documents Final Certifications** The A-E shall provide documents for certifications for the Energy Conservation Certification, the Recycled Content Construction Materials Certification, the LEED Certification, the Historic Preservation (SHPO) Certification, the Accessibility Certification (for specific areas), the Hazardous Materials Certification, and the Professional Responsibility Statement as listed in the final documents submission chart, K.2.5.9 to be submitted to GSA and the US Courts.

#### K.2.5.9 Final Construction Documents Submittals for EXTERIOR CLOSURE (#) number of copies included for the US Courts

Type of submittal	submittal size	quantities
Final Construction Documents narrative report	8.5" x 11"	8 (5)
All other reports, final version, Design Compliance, LEED, SHPO, etc.	8.5" x 11"	8 (5)
Drawings, final version, complete set, prints	Full size	3 7 (5) (1)
Drawings, final version, complete set, prints	Half size	7 7 (1) (5)
Specifications, final versions	8.5" x 11"	8 (5)
Specifications, final print ready originals	8.5" x 11"	1 set
Cost Estimate, final w/ GSA form 1787 certified	8.5" x 11"	8 (5)
All reports, final version	CD-ROM	4 (1)
Specifications, final version	CD-ROM	3 (1)
Cost estimate, final w/ GSA form 1787 certified	CD-ROM	3 (1)
Drawings, final version, complete set, (DWG format)	AutoCAD CD-ROM	4 (1)
Drawings, final version, MYLAR originals	Full size	one (1) set
Plot files, DWF Format, HPGL2 compatible	AutoCAD CD-ROM	4 (1)
Final Certifications	8.5" x 11"	2 (1)
Professional Responsibility Statement	8.5" x 11"	2 (1)

**K.2.6 CONFORMED CONST. DOCUMENTS for EXTERIOR CLOSURE**

**K.2.6.1 Conformed Construction Documents Submission** This submission shall consist of a set of all the contract documents revised to include all amendments issued subsequent to the release of the bid set up to the construction contract award. Submit the documents to GSA and the US Courts in the quantities and formats listed in the Conformed Construction documents submission chart as detailed in K.2.6.2.

**K.2.6.2 Conformed Const. Documents Submittals for EXTERIOR CLOSURE**  
**(#) number of copies included for the US Courts**

Type of submittal	submittal size	quantities
Drawings, prints, complete set	Full size	5 (3) (1)
Drawings, prints, complete set	Half size	10 (1) (3)
Specifications, complete set	8.5" x 11"	5 (3) (3)
Specifications	CD-ROM	3 (1) (1)
Drawings, conformed version, MYLAR originals (only required for actual revised drawings)	Full size	One(1)Each*
Drawings (complete set) DWG. format	AutoCAD CD-ROM	3 (1) (1)
Plot files DWF format HPGL2	AutoCAD CD-ROM	3 (1) (1)

\* New MYLAR originals are only required if a given drawing contains revisions.  
Unrevised drawings do not require new MYLAR originals

**K.3 MEP & INTERIOR CONSTRUCTION DESIGN PHASE** The MEP & Interior Construction design phase will commence according to the design schedule after the A-E contract notice to proceed has been issued by the CO. The A-E shall submit a detailed schedule of the work in this phase to GSA and the US Courts within one week after the notice to proceed is issued. The MEP & Interior Construction work items for this phase are listed in the major work items referenced in Section A.2.

**K.3.1 PRE DESIGN SURVEY / CONCEPT PHASE for MEP & INTERIOR**

**CONSTRUCTION** The pre design survey/concept submission shall contain a minimum of three (3) distinct design alternative schemes for the HVAC system and one scheme for all other MEP & Interior Construction work items referenced in Section A.2. Each scheme shall contain the following:

**K.3.1.1 Pre Design Survey / Concept Narrative Report** This narrative report was prepared for all three phases of this project concurrently. It was prepared according to the requirements listed in the GSA Facilities Standards PBS P-100. Use this report to prepare the concept for the MEP/Interior Construction bid package. Read paragraph K.1.1 for further details. This report describes the design intent of the A-E's concept and how it meets the government's program requirements for the Thurgood Marshall US Courthouse. The report serves as a record of the A-E's concept selections and recommendations for this phase.

**K.3.1.2 Pre Design Survey /Concept Other Reports** The other reports include the submission prepared for the New York State Historic Preservation Office, the Design Requirements Compliance report, the LEED report, the Construction Waste Management report, the Hazardous Materials report, any reports of Design Excellence or Construction Excellence peer reviews and all other reports created. The reports shall be submitted to GSA and the US Courts as detailed in K.3.1.6.

**K.3.1.3 Pre Design Survey /Concept Drawings** The drawings shall be prepared according to the requirements listed in the GSA Facilities Standards PBS P-100. These drawings shall show the scope of work to be accomplished in this bid package. The floor plans shall indicate the courthouse's layout and the connections to the Daniel Patrick Moynihan U. S. Courthouse and the Metropolitan Correction Center and the Silvio J. Mallo Federal Office Building. The drawings shall be submitted to GSA and the US Courts as detailed in K.3.1.6.

**K.3.1.4 Pre Design Survey /Concept Calculations** The calculations for all disciplines shall be prepared according to the requirements in the GSA Facilities Standards PBS P-100. The calculations shall be submitted to GSA and the US Courts as detailed in K.3.1.6.

**K.3.1.5 Pre Design Survey / Concept Cost Estimate** The cost estimate shall be prepared with the level of detail at Uniformat II level 3 in accordance with Sections E.1.4 and H.1.5. The design contingency shall be limited to 10% and the estimate shall be escalated to the midpoint of construction. If the estimate exceeds the budget allowance (ECCA) for this portion of the project, the A-E shall propose cost savings to bring the project within the budget. Additionally, the A-E shall provide separate cost estimates broken out by shell/tenant improvements and "above-standard" costs for the US Courts and US Marshals Service. The A-E shall provide GSA forms 3474 (level 2) and 3473 (level 3) with the estimate to GSA and the US Courts as detailed in K.3.1.6.

**K.3.1.6 Pre Design Survey / Concept Submittals for MEP & INTERIOR CONST.**  
(#) number of copies included for the US Courts

Type of submittal	submittal size	quantities
Pre design survey / concept narrative report	8.5" x 11"	19 (5)
All other reports	8.5"x11"	19 (5)
Drawings, prints, complete set	Full size	10 (5)
Drawings, prints, complete set	Half size	19 (1)
Cost Estimate	8.5" x 11"	10 (5)
Calculations	8.5" x 11"	3 (1)
All reports/cost estimate	CD-ROM	3 (1)

### **K.3.2 DESIGN DEVELOPMENT PHASE for MEP & INTERIOR CONSTRUCTION**

**K.3.2.1 Notice to Proceed into the Design Development phase** Following the acceptance and approval of the Pre Design Survey / Concept submission and upon receipt of notice to proceed by the CO, work on the Design Development submission will commence. The function of this submission is to expand the approved basic design into a comprehensive and definitive presentation of the project scope of work. It will outline work to be included in the Construction documents, establish essentially correct dimensions, and show sufficient detail to allow verification of the material quantities and costs per the GSA Estimating handbook, for a UNIFORMAT level 5 cost estimate.

**K.3.2.2 Design Development Narrative Report** This narrative report shall be prepared according to the requirements listed in the GSA Facilities Standards PBS P-100. It shall expand on material presented in the Pre Design Survey/Concept report. It shall be based on the scope of work for the project, reflect the further development and evolution of this portion of the projects design and incorporate the government's comments generated from all parties after their review of the previous submission. The report shall be submitted to GSA and the US Courts as detailed in K.3.2.8.

**K.3.2.3 Design Development Other Reports** The other reports include the submission prepared for the New York State Historic Preservation Office (NYSHPO), any reply to previous NYSHPO submittals, the Design Requirements Compliance report, the LEED report, the Construction Waste Management report, the Hazardous Materials report, the Life Cycle Cost Analysis reports, the Value Engineering Workshop Incorporation report, any reports for the Design Excellence and Construction Excellence programs and all other reports created. The reports shall be submitted to GSA and the US Courts as detailed in K.3.2.8.

**K.3.2.4 Design Development Drawings** The design development drawings shall be prepared according to the requirements listed in the GSA Facilities Standards PBS P-100. These drawings shall clearly show the scope of the MEP and Interior Construction work in this bid package and incorporate all of the government's comments and corrections from the previous submission. These drawings shall be prepared on GSA standard sized sheets with the title block in accordance with GSA standards. GSA will provide the standard information required for the title block. The drawings shall be submitted to GSA and the US Courts as detailed in K.3.2.8.

**K.3.2.5 Design Development Specifications** The Design Development specifications shall be prepared in draft form according to the requirements listed in the GSA Facilities Standards PBS P-100. Each draft specification shall be clearly marked to show the deletions and additions. Each completed specification section shall be clearly marked as such. Begin to prepare the specifications index and drawings list that will be included in the construction solicitation. The specifications shall be submitted to GSA and the US Courts as detailed in K.3.2.8.



**K.3.2.6 Design Development Calculations** The calculations for all disciplines shall be prepared according to the requirements in the GSA Facilities Standards PBS P-100. This submission shall incorporate all of the government's comments and corrections from the previous submission. The calculations shall be submitted to GSA and the US Courts as detailed in K.3.2.8.

**K.3.2.7 Design Development Cost Estimate** The cost estimate shall be prepared with the level of detail at Uniformat II level 4 in accordance with Sections E.1.4 and H.1.5. The estimate shall incorporate all of the government's comments/corrections from the previous submission and from the independent estimate review. The design contingency shall be limited to 10% and the estimate shall be escalated to the midpoint of construction. If the estimate exceeds the budget allowance (ECCA) for this portion of the project, the A-E shall propose cost savings to bring the project within the budget. Additionally, the A-E shall provide separate cost estimates broken out by shell/tenant improvements and "above-standard" costs for the US Courts and US Marshals Service. The A-E shall provide GSA forms 3474 (level 2) and 3473 (level 3) with the estimate to GSA and the US Courts as detailed in K.3.2.8.

**K.3.2.8 Design Development Submittals for MEP & INTERIOR CONSTRUCTION (#) number of copies included for the US Courts**

Type of submittal	submittal size	quantities
Design Development narrative report	8.5" x 11"	19 (5)
All other reports	8.5"x11"	19 (5)
Drawings, complete set	Full size	10 (5)
Drawings, complete set	Half size	19 (1)
Specifications	8.5" x 11"	16 (3)
Cost Estimate	8.5" x 11"	10 (5)
Calculations	8.5" x 11"	5 (3)
All reports / specifications /calculations/cost estimate	CD-ROM	3 (1)
Drawings (complete set) DWG. format	AutoCAD CD-ROM	3 (1)
Plot files DWF format HPGL2 compatible	AutoCAD CD-ROM	3 (1)

**K.3.3 50% CONSTRUCTION DOCUMENTS PHASE for MEP & INTERIOR CONSTRUCTION**

**K.3.3.1 Notice to Proceed into the 50% Construction Documents phase** Following the acceptance and approval of the Design Development submission and upon receipt of notice to proceed from the CO, work on the 50% Construction Documents phase will commence. The function of this submission is to expand the approved design into construction documents. These construction documents shall be prepared as per the requirements listed in the GSA Facility Standards PBS P-100. These construction documents shall show correct dimensions and building information in sufficient detail to allow verification of the material quantities and costs for a UNIFORMAT level 5 cost estimate.

**K.3.3.2 50% Construction Documents Progress Check** The A-E shall determine when the construction documents are 50% complete and notify the GSA CO. The 50% progress check will then be made by GSA, the US Courts and the CM. This check will be made in the A-E's office to determine that satisfactory progress and coordination is being achieved and that the previously approved submission is being accurately followed with no unauthorized changes. If the 50% progress check is satisfactory then the A-E shall submit the 50% construction documents submittal to GSA and the US Courts for review. The A-E shall continue with work on the construction documents during this progress check.

**K.3.3.3 50% Construction Documents Narrative Report** This narrative report shall be prepared according to the requirements listed in the GSA Facilities Standards PBS P-100. It shall expand on material presented in the Design Development report. It shall be based on the scope of work for the project, reflect the further development and evolution of this portion of the project's design and incorporate the government's comments and corrections generated from all parties after their review of the previous submission. The report shall be submitted to GSA and the US Courts, as detailed in K.3.3.9.

**K.3.3.4 50% Construction Documents Other Reports** The other reports include the submission prepared for the New York State Historic Preservation Office (NYSHPO), any reply to previous NYSHPO submittals, the Design Requirements Compliance report, the LEED report, the Construction Waste Management report, the Hazardous Materials report, the Life Cycle Cost Analysis report, the Value Engineering Workshop Incorporation report, any reports for the Design Excellence and Construction Excellence programs and all other reports created. These reports shall be submitted to GSA and the US Courts, as detailed in K.3.3.9.

**K.3.3.5 50% Construction Document Drawings** The 50% construction documents drawings shall be prepared according to the requirements listed in the GSA Facilities Standards PBS P-100. These drawings shall clearly show the scope of the MEP/Interior Construction work to be provided in this bid package. These drawings shall incorporate all of the government's comments and corrections from the previous submission. The drawings shall be prepared on GSA standard size sheets with the title block in accordance with GSA standards. GSA will provide the standard information required for the title block. The drawings shall be submitted to GSA and the US Courts as detailed in K.3.3.9.

**K.3.3.6 50% Construction Document Specifications** The A-E shall continue with the development of the specifications. Each draft specification section shall be clearly marked to show the deletions and additions. Each completed specification section shall be clear marked as such. The A-E shall block out the complete structure of the final specification volumes as they will be prepared for the construction solicitation including the index of sections and drawing listing. The specifications shall be submitted to GSA and the US Courts as detailed in K.3.3.9.

**K.3.3.7 50% Construction Document Calculations** The calculations for all disciplines shall be prepared according to the requirements in the GSA Facility Standards PBS P-100.

This submission shall incorporate all of the government's comments and corrections from the previous submission. The calculations shall be submitted to GSA and the US Courts as detailed in K.3.3.9.

**K.3.3.8 50% Construction Document Cost Estimate** The cost estimate shall be prepared with the level of detail at Uniformat II level 4 in accordance with Sections E.1.4 and H.1.5. The estimate shall incorporate all of the government's comments/corrections from the previous submission and from the independent estimate review. The design contingency shall be limited to 5% and the estimate shall be escalated to the midpoint of construction. If the estimate exceeds the budget allowance (ECCA) for this portion of the project, the A-E shall propose cost saving ideas to bring the project within the budget. Additionally, the A-E shall provide separate cost estimates broken out by shell/tenant improvements and "above-standard" costs for the US Courts and US Marshals Service. The A-E shall provide GSA forms 3474 (level 2) and 3473 (level 3) with the estimate to GSA and the US Courts as detailed in K.3.3.9.

**K.3.3.9 50% Construction Documents Submittals for MEP & INTERIOR CONSTRUCTION**  
**(#) number of copies included for the US Courts**

Type of submittal	submittal size	quantities
50% Construction documents narrative report	8.5" x 11"	19 (5)
All other reports	8.5"x11"	19 (5)
Drawings, prints, complete set	Full size	10 (5)
Drawings, prints, complete set	Half size	19 (1)
Specifications	8.5" x 11"	16 (3)
Cost Estimate	8.5" x 11"	10 (5)
Calculations	8.5" x 11"	5 (3)
All reports / specifications / calculations/cost estimate	CD-ROM	3 (1)
Drawings (complete set) DWG. format	AutoCAD CD-ROM	3 (1)
Plot Files DWF format, HPGL2 compatible	AutoCAD CD-ROM	3 (1)

**K.3.4 100% CONSTRUCTION DOCUMENTS PHASE FOR MEP & INTERIOR CONSTRUCTION**

**K.3.4.1 Notice to Proceed into the 100% Construction Documents phase** Following the acceptance and approval of the 50% Construction Documents submission and upon receipt of notice to proceed from the CO, work on the 100% Construction Documents phase will commence. The function of this submission is to complete the preparation of the construction documents into their final state and to allow verification of the cost estimate.

**K.3.4.2 100% Construction Documents Narrative Report** This narrative report shall be prepared according to the requirements listed in the GSA Facilities Standards PBS P-100. It shall expand on material presented in the 50% Construction Documents report. It shall reflect the final development and design of the project and incorporate of the government's comments generated from all parties after their review of the previous submission. The report shall be submitted to GSA and the US Courts as detailed in K.3.4.8.

**K.3.4.3 100% Construction Documents Other Reports** The other reports include any submission prepared for the New York State Historic Preservation Office (NYSHPO), any reply to previous NYSHPO submittals, the Design Requirements Compliance report, the LEED report, the Construction Waste Management report, the Hazardous Materials report, the Life Cycle Cost Analysis reports, the Value Engineering Workshop Incorporation report, any reports for the Design Excellence and Construction Excellence programs and all other reports created. These reports shall be submitted to GSA and the US Courts as detailed in K.3.4.8.

**K.3.4.4 100% Construction Documents Drawings** The 100% construction documents drawings shall be prepared according to the requirements listed in the GSA Facility Standards PBS P-100. These drawings shall show the final development and design of the drawings portion of this bid package. These drawings shall incorporate all of the government's comments and corrections from the previous submission. The drawings shall be submitted to GSA and the US Courts as detailed in K.3.4.8.

**K.3.4.5 100% Construction Documents Specifications** The 100% construction document specifications shall be prepared according to the requirements listed in the GSA Facilities Standards PBS P-100. These specifications shall show the final development of the specifications, the specifications index and drawings list for inclusion in the construction solicitation. These specifications shall incorporate all of the government's comments and corrections from the previous submission. The specifications shall be submitted to GSA and the US Courts as detailed in K.3.4.8.

**K.3.4.6 100% Construction Documents Calculations** The calculations for all disciplines shall be prepared according to the requirements listed in the GSA Facilities Standards PBS P-100. This submission will incorporate all of the government's comments and corrections from the previous submission. The calculations shall be submitted to GSA and the US Courts as detailed in K.3.4.8.

**K.3.4.7 100% Construction Documents Cost Estimate** The cost estimate shall be prepared with the level of detail at Unifomat II level 4 in accordance with Sections E.1.4 and H.1.5. This estimate shall show the construction cost figure that the A-E anticipates GSA will receive from the project bidders. The estimate shall incorporate all of the government's comments/corrections from the previous submission and from the independent estimate review. The design contingency shall be limited to 0% and the estimate shall be escalated to

the midpoint of construction. If the estimate exceeds the budget allowance (ECCA) for this portion of the project, the A-E shall propose cost saving ideas to bring the project within the budget. Additionally, the A-E shall provide separate cost estimates broken out by shell/tenant improvements and "above-standard" costs for the US Courts and US Marshals Service. The A-E shall provide GSA forms 3474 (level 2) and 3473 (level 3) with the estimate to GSA and the US Courts as detailed in K.3.4.8.

#### **K.3.4.8 100% Construction Documents submittals for MEP & INTERIOR CONSTRUCTION**

(#) number of copies included for the US Courts

Type of submittal	submittal size	quantities
100% construction documents narrative report	8.5" x 11"	19 (5)
All other reports	8.5"x11"	19 (5)
Drawings, prints, complete set	Full size	10 (5)
Drawings, prints, complete set	Half size	19 (1)
Specifications	8.5" x 11"	16 (3)
Cost estimate	8.5" x 11"	10 (5)
Calculations	8.5" x 11"	5 (3)
All reports/specifications/calculations/cost estimate	CD-ROM	3 (1)
Drawings (complete set) DWG. format	AutoCAD CD-ROM	3 (1)
Plot files DWF format, HPGL2 compatible	AutoCAD CD-ROM	3 (1)

#### **K.3.5 FINAL CONSTRUCTION DOCUMENTS PHASE for MEP & INTERIOR CONSTRUCTION**

**K.3.5.1 Final Construction Documents Submission** This submission shall consist of a complete and coordinated set of reports, certifications, drawings, specifications, schedules, calculations, and a final cost estimate. This submission is to incorporate all of the government's comments and corrections generated in the review of the 100% construction document and the independent estimate review. Submit all documents to GSA and the US Courts in the quantities and formats listed in the Final Construction documents submission chart as detailed in K.3.5.9.

**K.3.5.2 Final Construction Documents Narrative report** This report shall be prepared according to the requirements listed in the GSA Facilities Standards PBS P-100. It shall expand on material included in the 100% construction documents report. It shall reflect the final pre bid development of the project and incorporate all of the government's comments from the previous submission. The report shall be submitted to GSA and the US Courts as detailed in K.3.5.9.

**K.3.5.3 Final Construction Documents Other Reports** The final other reports include the, NYSHPO report, the Design Requirements Compliance report, the LEED Certification report, the Construction Waste Management report, the Hazardous Materials report, the Life

cycle Cost Analysis report, the Value Engineering Workshop Incorporation report, any reports for the Design Excellence and Construction Excellence programs and all other reports. Submit final corrected copies of these reports to GSA and the US Courts in the quantities and types listed in the Final Documents submission chart, K.3.5.9.

**K.3.5.4 Final Construction Documents Drawings** The final drawings shall consist of sets of the final corrected copies of the 100% construction document drawings including the government's comments. The drawings shall be submitted to GSA and the US Courts in the quantities and types listed in the Final Documents submission chart, K.3.5.9.

**K.3.5.5 Final Construction Documents Specifications** The final specifications shall consist of sets of the final corrected copies of the 100% construction document specifications including the government's comments. The specifications shall be submitted to GSA and the US Courts in the quantities and types listed in the Final Documents submission chart, K.3.5.9.

**K.3.5.6 Final Construction Documents Cost Estimate** The cost estimate shall be prepared with the level of detail at Uniformat II level 4 in accordance with Sections E.1.4 and H.1.5. If the Uniformat II format is used for the detailed back-up estimate rather than the CSI format, an additional back-up estimate shall be prepared using the CSI format. The estimate shall show the final pre-bid construction cost in accordance with the design, including all of the government's comments/corrections generated in the review of the 100% construction documents estimate submission and the independent estimate review. There shall be no design contingency in the estimate and the estimate shall be escalated to the midpoint of construction. Additionally, the A-E shall provide separate cost estimates broken out by shell/tenant improvements and "above-standard" costs for the US Courts and US Marshals Service. The A-E shall provide GSA forms 3474 (level 2) and 3473 (level 3) as well as GSA form 1787 with the estimate. CSI format summaries equivalent to GSA forms 3474 and 3473 shall also be submitted in addition to those prepared in Uniformat II. The cost estimate shall be submitted to GSA and the US Courts in the quantities and types listed in the Final Documents submission chart, K.3.5.9.

**K.3.5.7 Final Construction Documents Calculations** The final calculations shall be prepared to incorporate all of the government's comments and corrections from previous submissions. The calculations shall be submitted to GSA and the US Courts in the quantities and types listed in the Final Documents submission chart, K.3.5.9.

**K.3.5.8 Final Construction Documents Final Certifications** The A-E shall provide documents for certifications for the Energy Conservation Certification, the Recycled Content Construction Materials Certification, the LEED Certification, the Historic Preservation (SHPO) Certification, the Accessibility Certification (for specific areas), the Hazardous Materials Certification, and the Professional Responsibility Statement as listed in the final documents submission chart, K.3.5.9 to GSA and the US Courts.

### K.3.5.9 Final Construction Documents Submittals MEP & INTERIOR CONSTRUCTION

(#) number of copies included for the US Courts

Type of submittal	submittal size	quantities
Final Construction Documents narrative report	8.5" x 11"	8 (5)
All other reports, final version, Design Compliance, LEED, SHPO, etc.	8.5" x 11"	8 (5)
Drawings, final version, complete set, prints	Full size	7 (5)
Drawings, final version, complete set, prints	Half size	7 (1)
Specifications, final versions	8.5" x 11"	8 (5)
Specifications, final print ready originals	8.5" x 11"	one (1) set
Cost Estimate, final w/ GSA form 1787 certified	8.5" x 11"	8 (5)
Calculations, Final	8.5" x 11"	5 (3)
All reports, final version	CD-ROM	4 (1)
Specifications, final version	CD-ROM	3 (1)
Cost estimate, final w/ GSA form 1787 certified	CD-ROM	3 (1)
Calculations, Final	CD-ROM	3 (1)
Drawings, final version, complete set, (DWG format)	AutoCAD CD-ROM	4 (1)
Drawings, final version, MYLAR originals	Full size	one (1) set
Plot files, DWF format HPLG2 compatible	AutoCAD CD-ROM	4 (1)
Final Certifications	8.5" x 11"	2 (1)
Professional Responsibility Statement	8.5" x 11"	2 (1)

### K.3.6 CONFORMED CONST. DOCUMENTS for MEP & INTERIOR CONST.

**K.3.6.1 Conformed Construction Documents Submission** This submission shall consist of a set of all the contract documents revised to include all amendments issued subsequent to the release of the bid set up to the construction contract award. Submit the documents to GSA and the US Courts in the quantities and formats listed in the Conformed Construction documents submission chart as detailed in K.3.6.2.

**K.3.6.2 Conformed Const. Documents Submittals for MEP & INTERIOR CONST.**  
(#) number of copies included for the US Courts

Type of submittal	submittal size	quantities
Drawings, prints, complete set	Full size	5 (3)
Drawings, prints, complete set	Half size	10 (1)
Specifications, complete set	8.5" x 11"	5 (3)
Specifications	CD-ROM	3 (1)
Drawings, conformed version, MYLAR originals (only required for actual revised drawings)	Full size	One(1)Each*

Drawings (complete set) DWG. format	AutoCAD CD-ROM	3 (1)
Plot files DWF format, HPGL2 compatible	AutoCAD CD-ROM	3 (1)

\* New MYLAR originals are only required if a given drawing contains revisions.

Unrevised drawings do not require new MYLAR originals

## **L – BID PHASE SERVICES**

**L.1 General & Sub-Contractors' Bid Questions/RFI's** The A-E shall be responsible for answering all contractor questions/RFI's pertaining to the design during the period of bidding. Contractor inquiries shall be addressed to GSA. GSA will forward all questions/RFI's to the A-E (copy to the US Courts) for formal response. The A-E shall prepare answers to all questions/RFI's. The A-E shall also prepare any clarifications or supplemental drawings required to clarify or correct any issue. The A-E shall forward all this material to GSA and the US Courts for issue as bid amendments to all the contractors. A-E response time for each RFI shall be no more than 5 business days unless otherwise authorized by GSA. All communications with the contractors concerning bid document questions/RFI's during the bidding period will be done through GSA in conjunction with the US Courts. All of this work is considered corrections and/or clarifications to the bid documents prepared by the A-E.

**L.2 Conformed Construction Documents** The A-E will be responsible for preparing and issuing conformed construction documents to GSA and the US Courts upon award of the construction contract. The drawings and specifications shall be revised by the A-E to include all bid amendments issued by the A-E subsequent to the initial release of the bid documents up to the time of construction contract award. The quantities and formats for these conformed documents are listed in the respective submittal schedules for each phase of deliverables (see K.1.6.2 – Bulk Demolition, K.2.6.2 – Exterior Closure and K.3.6.2 – MEP & Interior Construction). All of this work is considered corrections and/or clarifications to the bid documents prepared by the A-E.

## **M - CONSTRUCTION PHASE SERVICES OPTIONS**

Service	Option
Post Construction Contract Services (PCCS)	3
Construction Inspection Services (CIS)	4
As Built Documents	5
A-E Monthly Site Visits	6
Total Building Commissioning	7

### **M.1 Post Construction Contracts Services (PCCS) (Option 3)**


These services will be considered extensions of work previously completed under the design services contract. The same consultants will be retained and personnel familiar with the project will continue to serve in their previous capacities.


**M.1.1 Submittal Review** The A-E shall review all submittals issued by the construction contractor for completeness and accuracy of the documents. The A-E shall then submit their




comments back to the contractor with a copy to the CM. The A-E shall submit copies of the transmittal cover letters accompanying the comments to the US Courts. The A-E shall keep an accurate log of all submittals. This log shall be cross-referenced to the GSA/CM log and the construction contractor's log for ease of tracking. The A-E shall submit their log on a schedule to be set by the respective parties.

**M.1.2 Review Process** The A-E shall maintain a record of all submittals and indicated action taken. The review process will not impose on the reviewer, nor relieve the construction contractor from, the responsibility for errors or omissions, correctness of details or conformity with the construction contract documents. The A-E shall review all submittals and mark each sheet with one of the following designations:

 **Reviewed** Indicates submittal is in full compliance with contract documents. Work will proceed.

 **Reviewed as Noted** Indicates submittal has minor corrections, not significant enough to require re-submission. Work will proceed, provided it complies with annotations and corrections.

 **Resubmit** Indicates another submission is required due to the nature or number of needed corrections. Work will not proceed. Submittal will be revised in conformance with annotations and re-submitted without delay.

**No Action** Indicates a submittal is returned for other reasons with an explanation included. No departure from the contract requirements will be made without prior written approval by the CO.

**M.1.3 Submittals Distribution** The distribution of submittals by the construction contractor is outlined in specification section 01300 – Submittals. The construction contractor will provide the multiple copies required for each submittal for A-E review. The typical distribution of reviewed submittals with related transmittals will be as listed in the chart below. Remaining copies shall go to the construction contractor. GSA Form 2402 letter of transmittal will be used for this purpose with copies to all parties on the distribution list.

Reviewed Submittal Distribution	
CM	Two (2) copies
A-E	One (1) copy

**M.1.4 Construction Change Order Services** The A-E shall promptly review all proposed construction change orders as may be submitted to the A-E by GSA or the CM, with a copy to the US Courts, after receipt from the GC. This review shall include (1) an analysis of the technical feasibility of the change requested, (2) an analysis of the costs involved and (3) an analysis of the time extension or compression, if the total construction contract time is affected. A written report, summarizing this review and covering the three elements noted above, including the A-E's recommendations, shall be returned to the CM, GSA and the US

Courts. In some cases, the A-E may be requested by GSA to prepare all documentation, including sketches, drawings, written descriptions and/or specifications needed to define the proposed change order. The CM, after consultation with GSA and the US Courts, will seek approval of the CO and will issue approved change orders to the General Contractor. The A-E shall keep an accurate log of all change orders. This log shall be cross-referenced to the CM log and the construction contractor's log for ease of tracking. The A-E shall submit their log on a schedule to be set by the respective parties. Instructions to the A-E for specific types of change order requests and payments follow.

**M.1.5 Contractor Request for Substitutions** The A-E shall be completely responsible for investigating any request for substitutions from the construction contractor. The construction contractor's requests for substitution(s) will be addressed to the CM who will determine their appropriateness, advise GSA and the US Courts and then forward them to the A-E for response. The A-E shall prepare a response and submit it back to GSA and the US Courts for review, with final decision by the CO. The A-E shall keep an accurate log of all requests for substitutions. This log shall be cross-referenced to the CM log and the construction contractor's log for ease for tracking. The A-E shall submit their log on a schedule to be set by the respective parties.

**M.1.6 Contractor Value Engineering Proposals** The A-E shall review and approve or reject all value-engineering proposals offered by the General Contractor. The basis for approval shall be that GSA receives equal or improved value, performance and quality for a reasonable and true reduced cost. The A-E shall keep an accurate log of all contractor value engineering proposals. This log shall be cross-referenced to the CM log and the construction contractor's log for ease for tracking. The A-E shall submit their log on a schedule to be set by the respective parties.

**M.1.7 Contractor Originated Change Order Proposals** The A-E shall review all contractor originated change proposals caused by changed conditions or other construction related events. The A-E shall perform the standard review as noted above and shall also verify the changed conditions including the cause of the changed conditions. The A-E shall keep an accurate log of all contractor originated change order proposals. This log shall be cross-referenced to the CM log and the construction contractor's log for ease for tracking. The A-E shall submit their log on a schedule to be set by the respective parties.

**M.1.8 Government Originated Change Orders** The A-E shall investigate the technical feasibility of all Government originated changes and prepare all documentation required to issue the change order request to the contractor including descriptions, specifications, sketches and drawings. The A-E shall also prepare costs estimates and assist in the evaluation of the contractors pricing when requested. The A-E shall keep an accurate log of all government originated change order proposals. This log shall be cross-referenced to the CM log and the construction contractor's log for ease for tracking. The A-E shall submit their log on a schedule to be set by the respective parties.

**M.1.9. Change Orders Required Due to A-E Errors and Omissions** Should change orders be required in the construction contract due to A-E Errors and Omissions, the A-E

shall provide all required designs, documentation, specifications and cost estimates **at no additional costs to the Government** in order to enable the Government to negotiate and issue the appropriate construction change order. The A-E shall keep an accurate log of all change orders required due to A-E Errors and Omissions. This log shall be cross-referenced to the CM log and the construction contractor's log for ease for tracking. The A-E shall submit their log on a schedule to be set by the respective parties.

**M.1.10. Explanatory Information, Not Requiring a Change Order** Should explanatory information be required to further explain or delineate design intent and requirements, due to A-E errors or design omissions, the A-E shall provide all necessary explanatory information, drawings and specifications at no additional cost to the Government. The A-E shall keep an accurate log of all explanatory information. This log shall be cross-referenced to the CM log and the construction contractor's log for ease for tracking. The A-E shall submit their log on a schedule to be set by the respective parties.

**M.1.11 Operation and Maintenance (O&M) Manuals**

**M.1.11.1 Coordination Responsibility** The A-E shall be responsible for coordinating a review of the O&M manuals provided by the General Contractor to GSA. GSA, after receipt of the O&M manuals, will distribute copies to the A-E, CM and the US Courts for review. Upon confirmation from the A-E and CM, the CO will issue acceptance to the construction contractor. The A-E shall keep an accurate log of all Operation and Maintenance Manuals. This log shall be cross-referenced to the CM log and the construction contractor's log for ease for tracking. The A-E shall submit their log on a schedule to be set by the respective parties.

**M.1.11.2 Content** The operation and maintenance manuals shall include the following information:

1. Description of system design intent and proposed operation.
2. Work description of the system.
3. General operating instructions, including copies of posted specific instructions.
4. Maintenance instructions, followed by tabulated manufacturer's descriptive literature, shop drawings, wiring diagrams, schematics, performance curves and rating data, manufacturer's suggested spare parts lists, and manufacturer's maintenance manuals.
5. Information, as indicated above, shall be prepared and assembled in separate manuals for each system (i.e. Elevators, HVAC, Electrical, etc.).

**M.1.11.3 Delivery** The operation and maintenance manuals shall be delivered to GSA and the US Courts at least 60 days prior to the substantial completion for each function/system addressed by the operation and maintenance manuals. GSA will consider that construction is

phased and that the completion of the installation of the various systems may occur at different times in the construction work.

## **M.2 Construction Inspection Services (CIS) (Option 4)**

**M.2.1 CIS Services Overview** These services will be considered extensions of work previously completed under the post construction contract services (option 3). The same consultants will be retained as necessary, the criteria in the documents will be followed, and personnel familiar with the project will continue in their previous capacities. The A-E shall not provide a price proposal for this work until specifically requested by the CO.

**M.2.2 Familiarization of Progress and Quality of Work** The A-E shall visit the site to become familiar with the progress and quality of the completed work on a regular basis. The A-E shall determine if the work is performed in a manner that, when completed, will be in accordance with the final construction documents. The A-E's HVAC engineer will attend HVAC system start-up, to insure that the system is working as designed. The A-E and its consultants shall prepare reports to be submitted to GSA and the US Courts on a schedule to be set by the respective parties.

**M.2.3 GSA Resident Engineer** GSA will provide a Resident Engineer (and basic staff) who will be the Contracting Officer's Representative (COR) for the project. The GSA Resident COR will have overall responsibility for the inspection of the construction work. The observation personnel provided by the A-E under provisions of this scope of work, shall coordinate with, and report all observations to the GSA Resident COR and the US Courts, in writing.

**M.2.4 Observation Services by A-E** The A-E shall, make regularly scheduled inspections to the job-site and inspect the progress of the construction. The A-E shall make unscheduled inspections as requested by the GSA. All inspections by A-E in-house staff personnel and by Consultant personnel shall be coordinated, planned and executed to (1) provide detailed professional support to the full-time personnel on the job site and (2) keep the GSA and the US Courts apprised at all times of the status and progress of the project construction work from an overview point of address. The A-E and Consultant Personnel shall provide the following indicated specific observation services:

During each inspection visit to the job site, each specialist shall sign in and sign out in the logbook maintained on the job site by the CM for this purpose. While on site, each inspecting specialist shall prepare a handwritten report of his observations and leave a copy with the COR, the US Courts and the full-time CM Inspector. A copy of this observation information shall also be provided to the A-E project manager for his or her appraisal and summary. The A-E shall maintain an accurate log of all the field inspection reports. This log shall be cross-referenced to the CM log for ease for tracking. The A-E shall submit their log on a schedule to be set by the respective parties.

**M.2.5 Qualifications of Inspection Personnel** Prior to utilizing personnel in either of the disciplines indicated above, the A-E shall provide a resume of the qualifications of each

proposed member of the inspection team. The CO reserves the right to reject any proposed person that does not meet the minimum qualifications indicated in this scope of work.

**M.2.6 Removal/Substitution of Inspection Personnel** The CO retains the right to require the A-E to remove from the project inspection team or replace any team member for cause, including but not limited to insubordination, carelessness or incompetence.

**M.2.7 Substitution of Inspection Personnel** The A-E shall not make substitutions of inspection personnel without first submitting to the CO, with a copy to the US Courts, the resume of qualifications of the proposed team member and obtaining written approval from the CO.

### **M.3 As Built Documents (Option 5)**

**M.3.1 As-Built Documents Services Overview** The GC will provide to the A-E & CM through GSA, a set of amended contract documents. The A-E shall transcribe all changes from the amended construction documents; shop drawings and contractor's marked up drawings onto the final construction documents CD-ROM and a plot ready drawing file CD-ROM. The A-E shall provide a CD-ROM to GSA and the US Courts as well as a set of reproducible polyester film, both identified as "As Built Set." The A-E shall also provide a set of the specifications in hard copy, as well and on CD-ROM, identified as "As Built Set" to GSA and the US Courts. The A-E shall deliver the "As Built Set" to the GSA-Region 2-PBS-Property Development Division offices and to the US Courts with a dated transmittal statement.

**M.3.2 Provision Of On-Site Documents** The A-E shall make provisions in the design drawings and specifications for the General Contractor to maintain, on the construction site, one complete set of drawings and one complete set of specifications for the exclusive use and purpose of recording, in these documents, in color, all installation work that deviates from the construction documents. The CM has responsibilities to verify, periodically, during the course of the inspections of the construction work, that the General Contractor is promptly recording all installation work that deviates from the requirements of the construction drawings. The A-E shall confirm with the CM during the Construction Inspection Services (option 4) or A-E Monthly Site Visits (option 6) that these marked drawings are reasonably complete up to the stage of completion of construction at the time of observation. The A-E shall make a written report to GSA and the US Courts regarding the observations. The contractor shall provide this as-built information to GSA and the A-E for use in updating the project reproducible design documents to as-built conditions.

**M.3.3 Preparation of Record Documents** The A-E shall utilize the record information maintained on the job site by the construction contractor and furnished by the CM or the CO after construction. The A-E shall provide GSA and the US Courts the project record information as follows.

**M.3.4. Content** The as-built specifications and drawings shall be prepared to reflect ALL changes as provided by the CM and General Contractor that occurred in the project whether

they are within or outside the original scope of the project and without consideration to the installed work occurring under the original construction documents or occurring under change orders to the construction contract.

**M.3.5 Specifications** The A-E shall update record information to reflect the actual installed conditions of all equipment in the project. All changes to the project specifications shall be made in script form, or other method acceptable to GSA and the US Courts, such that the changes are noticeable during a review of the specifications. Each change in the specifications shall include an entry, in brackets, that identifies the change and the date of the change. Upon completion of construction, and within three weeks of receiving the complete marked set of construction specifications from the GC, the A-E shall deliver two sets of the final updated specifications on CD-ROM, identified as "Record Documents" to GSA. One set will go to GSA and one set will go to the US Courts.

**M.3.6 As Built Record Drawings** Upon completion of the construction, and within a mutually agreed to time frame of receiving the set of complete construction drawing prints marked by the General Contractor, and reviewed by the CM to show record conditions, the A-E shall transcribe all changes from the amended construction documents and the contractors marked up drawings onto the final record documents on Auto CAD CD-ROM's in DWF and DWG formats. Two copies of each CD-ROM shall be submitted. One copy shall go to GSA and the other shall go to the US Courts. The A-E shall also provide two sets of reproducible polyester film, both identified as "Record Documents." One set shall go to GSA and the other shall go to the US Courts.

**M.3.7 As Built Assignment Drawings** The final submission shall include complete CAD assignment plans in accordance with the latest PBS Assignment Drawing Guide. The plans shall be submitted to GSA after review and approval by the US Courts. The A-E shall submit two copies of the approved plans on Auto CAD CD-ROM's in DWF and DWG formats and two sets of reproducible polyester film. One copy/set shall go to GSA and the other shall go to the US Courts.

**M.4 A-E Monthly Site Visits (Option 6)** The project manager of the prime A-E firm shall make site visits and attend job meetings monthly. Immediately after each site visit and job meeting the A-E shall submit a written report to the CO and US Courts with comments on progress. The report shall provide advice regarding any problems or deviations from the construction documents and make recommendations to further the progress of the work. On the basis of these site visits and job meetings, the A-E shall keep GSA and the US Courts informed of the progress of the work, and endeavor to guard GSA and US Courts against defects and deficiencies. These visits are not considered Construction Inspection Services (CIS), which are considered continuous day to day inspections. The requirements of CIS are listed in option 4 of this scope of work.

**M.5 Total Building Commissioning (Option 7)** The Total Building Commissioning (TBC) services contractor will be subcontracted by the CM in most circumstances. In the absence of a CM, this work will be subcontracted by the A-E to a TBC services contractor. Since the building commissioning process is interwoven with the overall project delivery

process, the TBC contractor will be fully involved in all aspects of the project starting with the design phase, then through the construction phase and finally through the post-construction phase. The A-E shall not provide a price proposal for this work until specifically requested by the CO.

**END of SCOPE of WORK**

## **SECTION VI**

- A. INDIVIDUALS DESIGNATED TO PERFORM UNDER THIS CONTRACT**
- B. SCHEDULE FOR PROCEEDING WITH PHASED SERVICES AND OPTIONS**
- C. FEE SCHEDULE**

SECTION VI

159(a)



**SECTION VI: INDIVIDUALS DESIGNATED TO PERFORM UNDER THIS CONTRACT**

The following individuals listed for each firm will perform the Architect-Engineering services for the Design of the Infrastructure Upgrade of the Thurgood Marshall U.S. Courthouse in the job title indicated.

**NO SUBSTITUTION IS PERMITTED WITHOUT PRIOR APPROVAL OF THE CONTRACTING OFFICER. THE FIRM FIXED FEE WAS BASED ON THE APPROVED HOURLY RATES FOR THESE INDIVIDUALS.**

**PRIME FIRM:**

**BEYER BLINDER BELLE, LLP.**

**Discipline:**

**Name :**

**Rate:** 09

(b) (4)

Overhead: (b) (4)  
Profit:  
Escalation:

**CONSULTANTS:**

(b) (4)

**Discipline:**

**Name :**

**Rate:**

(b) (4)

**INDIVIDUALS DESIGNATED TO PERFORM UNDER THIS CONTRACT**

159(b)

Discipline:

Name :

Rate:

(b) (4)

Overhead: (b) (4)  
Profit:  
Escalation:

(b) (4)

Discipline:

Rate

All Rates are Average Rates

(b) (4)

Overhead:  
Profit: (b) (4)  
Escalation:

(b) (4)

Discipline:

Name :

Rate:

(b) (4)

INDIVIDUALS DESIGNATED TO PERFORM UNDER THIS CONTRACT

159(c)

Discipline:

Name :

Rate:

(b) (4)

Overhead: (b) (4)  
Profit:  
Escalation:

(b) (4)

Discipline:

Name :

Rate:

(b) (4)

Overhead: (b) (4)  
Profit: 1  
Escalation:

(b) (4)

Discipline:

Name :

Rate:

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Overhead: (b) (4)  
Profit:  
Escalation:

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Discipline:

Name :

Rate:

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Overhead: (b) (4)  
Profit:  
Escalation:

INDIVIDUALS DESIGNATED TO PERFORM UNDER THIS CONTRACT

159(d)

(b) (4)

Discipline:

Name :

Rate:

(b) (4)

Overhead:

Profit:

Escalation:

(b) (4)

(b) (4)

Discipline:

Name :

Rate:

(b) (4)

Overhead:

Profit:

Escalation:

(b) (4)

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Discipline:

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Rate:

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Escalation:

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Discipline:

Name :

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Escalation:

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INDIVIDUALS DESIGNATED TO PERFORM UNDER THIS CONTRACT

159(e)

(b) (4)

Discipline

Name

Rate

(b) (4)

Overhead:

Profit:

Escalation:

(b) (4)

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Discipline:

Name :

Rate:

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Overhead:

Profit:

Escalation:

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INDIVIDUALS DESIGNATED TO PERFORM UNDER THIS CONTRACT

159(f)

**SCHEDULE FOR PROCEEDING WITH PHASED SERVICES AND OPTIONS**

**CONTRACT NO.:** GS-02P-04-DTC-0023(N)  
**PROJECT NO.:** INY04002  
**A-E DESIGN SERVICES:** INFRASTRUCTURE UPGRADE OF THE  
THURGOOD MARSHALL U.S. COURTHOUSE  
40 Centre Street, New York, NY

Work in the proceeding services shall not commence until written notification to proceed has been issued by the Contracting Officer. The Contractor assumes the risk for proceeding without said notification.

**PREDESIGN SURVEY/CONCEPT SUBMISSION** - Effective JAN 14 2005 you are directed to proceed with this design phase.

**DESIGN PHASE OPTIONS**

**THE GOVERNMENT MAY EXERCISE DESIGN PHASE OPTION NOS. 1 & 2 PRIOR TO COMPLETION OF THE PREDESIGN SURVEY/CONCEPT SUBMISSION, HOWEVER, THE A/E WILL NOT PROCEED WITH ANY SERVICES PROVIDED UNDER THESE OPTIONS, WITHOUT PRIOR WRITTEN NOTIFICATION TO PROCEED.**

**OPTION NO. 1:**

**DESIGN DEVELOPMENT**-The Government may exercise this option by written notification to proceed with this phase within four (4) weeks after completion and approval of the PreDesign/Concept Phase.

\* There is no Design Development Phase for Bulk Demolition. Therefore, the Government will issue written notification to proceed to the 50% Construction Documents for the Bulk Demolition phase within four (4) weeks after completion and approval of PreDesign Survey/Concept Submission.

**OPTION NO. 2:**

**50% CONSTRUCTION DOCUMENTS**- Upon exercise of Option No. 2, the Government will issue written notification to proceed with this phase within four (4) weeks after completion and approval of the Design Development Phase.

**100% CONSTRUCTION DOCUMENTS**-The Government will issue written notification to proceed with this phase within four (4) weeks after completion and approval of the 50% Construction Documents.

**CONSTRUCTION DOCUMENTS: FINAL SUBMISSION**- The Government will issue written notification to proceed with this phase within four (4) weeks after completion and approval of the 100% Construction Documents.

## **CONSTRUCTION PHASE OPTIONS**

**THE OPTIONS FOR CONSTRUCTION PHASE SERVICES (OPTION NOS. 3 – 6) WILL BE EXERCISED INDIVIDUALLY IN ACCORDANCE WITH THE NEGOTIATED AMOUNTS PER PHASE UNDER EACH OPTION UPON AWARD OF THE CONSTRUCTION CONTRACTS FOR:**

- 1) BULK DEMOLITION**
- 2) EXTERIOR ENCLOSURE**
- 3) MEP/INTERIOR CONSTRUCTION**

### **OPTION NO. 3:**

**POST CONSTRUCTION CONTRACT SERVICES (PCCS)** - Upon award of the Construction Contracts for 1) Bulk Demolition 2) Exterior Enclosure and 3) MEP – Interior Construction, the Government may exercise the PCCS Option for each contract by written notice of election from the Contracting Officer.

### **OPTION NO. 4:**

**CONSTRUCTION INSPECTION SERVICES** - Upon award of the Construction Contracts for: 1) Bulk Demolition 2) Exterior Enclosure and 3) MEP – Interior Construction, the Government may exercise the Construction Inspection Services Option for each contract by written notice of election from the Contracting Officer.

### **OPTION NO. 5:**

**AS BUILT DRAWINGS** – Upon award of the Construction Contracts for: 1) Bulk Demolition 2) Exterior Enclosure and 3) MEP – Interior Construction, the Government may exercise the Construction Inspection Services Option for each contract by written notice of election from the Contracting Officer.

### **OPTION NO. 6:**

**A/E/ MONTHLY SITE VISITS:** Upon award of the Construction Contracts for: 1) Bulk Demolition 2) Exterior Enclosure and 3) MEP – Interior Construction, the Government may exercise the A/E Monthly Site Visits Option for each contract by written notice of election from the Contracting Officer.

C. FEE SCHEDULE

BASE CONTRACT DESIGN PHASE

PreDesignSurvey/Concept Submission

1,482,408.36

DESIGN PHASE OPTIONS

Design Development	Option No. 1
50% Construction Documents	Option No. 2
100% Construction Documents	Option No. 2
Final Submission Construction Docs	Option No. 2

TOTAL DESIGN OPTIONS:

TOTAL DESIGN AMOUNT (BASE AND OPTIONS)

CONSTRUCTION PHASE OPTIONS

Post Construction Contract Services (PCCS)	Option No. 3
Construction Inspection Services (CIS)	Option No. 4
As Built Drawings	Option No. 5
AE Monthly Site Visits	Option No. 6

TOTAL CONSTRUCTION OPTIONS:

TOTAL FEE (Design + Options):

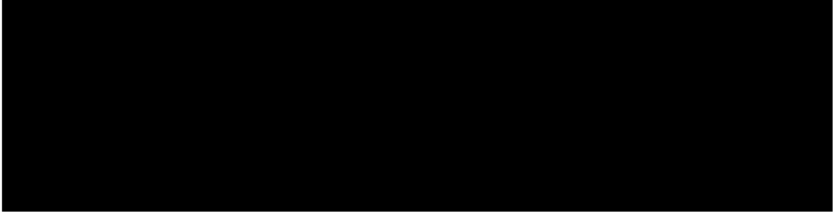
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**SECTION VII**

**KEY PERSONNEL**

Withhold under (b)(4) pp. 190 - 231



**SECTION VII**

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**E. RESUMES OF KEY PERSONNEL PROPOSED FOR THIS CONTRACT**  
*(Complete one Section E for each key person.)*

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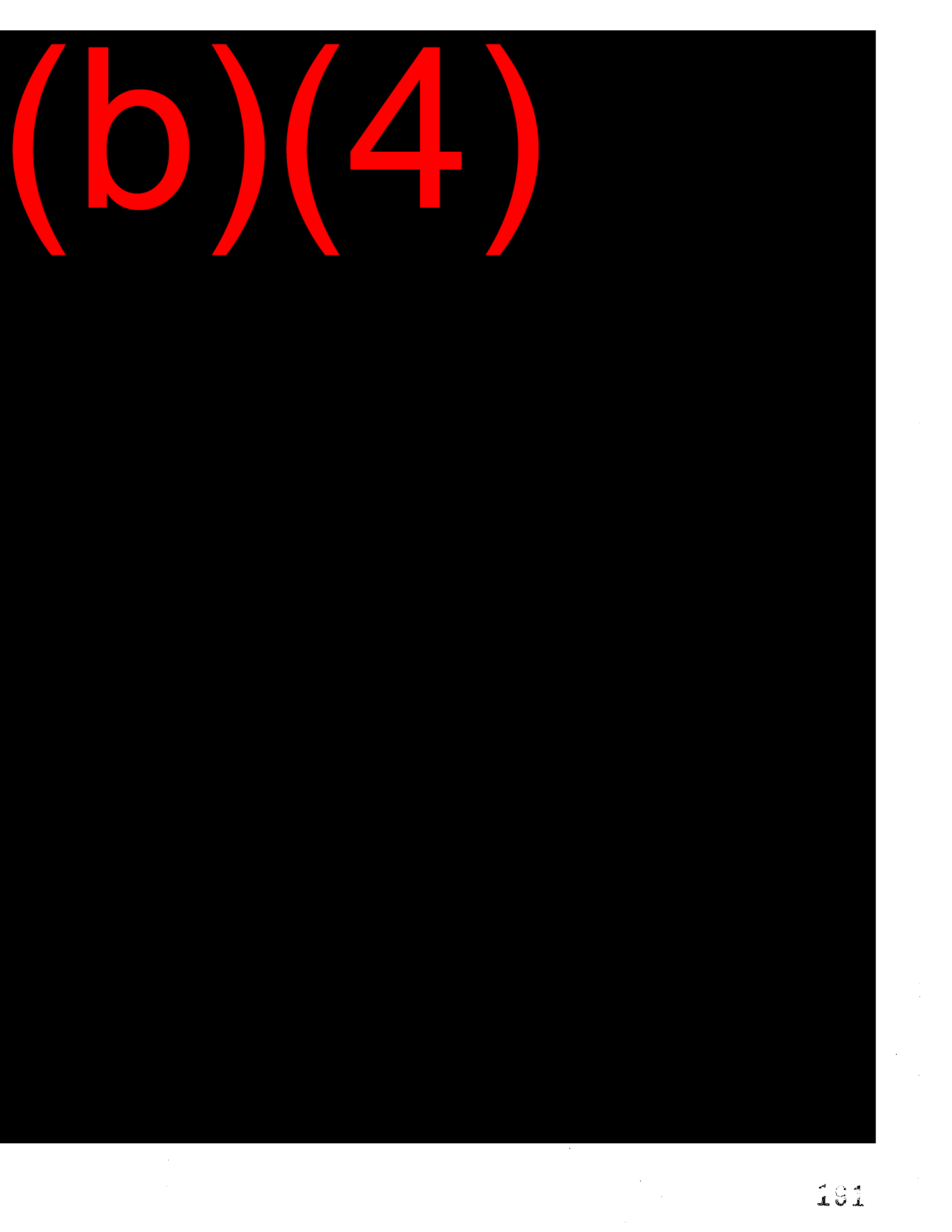
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Withhold under (b)(4) pp 232-241

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